

# Is Europe back on track? Impetus from the German EU Presidency

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Sebastian Kurpas & Henning Riecke

## Abstract

Rarely has an EU Presidency been met with such high expectations as Germany's in the first half of 2007. With hindsight, it might be said that these expectations have largely been fulfilled. The agreement on a detailed mandate for the upcoming Intergovernmental Conference (IGC) under the Portuguese Presidency now offers a way forward for a Union that has been 'in crisis' since the French and Dutch no-votes. This report offers an overview of the German Presidency's aims in the various policy areas and makes an assessment of the achievements of its six-month term. A summary of the content and structural background of German EU policy is given, explaining developments since unification, Germany's motivations for European integration, public opinion on European integration and the stances taken by the key political players in Germany. Insight into the organisational structures of the Presidency appears in the annex.

While acknowledging the difficulty of gauging the exact impact of the German presidency in relation to other factors, the report draws mostly positive conclusions on internal policies, where agreement on many concrete measures from the presidency's work programme could be achieved, notably on the single market, justice and home affairs, climate protection and energy policy. With the 'Berlin Declaration' Germany achieved a show of unity for the future of the Union that was an auspicious start for the talks on treaty reform. While it is clear that the agreement reached was not only on Germany's merit, the presidency played a prominent and constructive role throughout the negotiations. The mandate for the IGC is more than just a low common denominator and most parts of the Constitutional Treaty could be saved. In foreign policy, results were less tangible. Germany's engagement helped to deepen the economic partnership with the US, but due to factors beyond the Presidency's control, could not avoid deterioration in EU-Russia relations. In Kosovo and the Middle East, substantial settlements are also a long way off, but the EU is now preparing for an ambitious operation in Kosovo and Germany helped to engage the Middle East Quartet with the peace process, thus moving the conflict higher up on the international agenda.

Overall it can be said that the pragmatic step-by-step approach of the German Presidency yielded better results than a sober look at the initial conditions would have suggested.

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# IS EUROPE BACK ON TRACK? IMPETUS FROM THE GERMAN EU PRESIDENCY

SEBASTIAN KURPAS AND HENNING RIECKE\*

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## Introduction

High expectations surrounded the German EU Presidency in the run-up to its six-month-term in the first half of 2007. The EU needed a way out of the deadlock over its constitution, and many Europeans expected Germany to provide fresh political leadership, especially since few alternatives were on offer in the previous year. Angela Merkel's European debut during the 2005 budget negotiations had widely been seen as a success, as she had contributed to brokering a deal between strongly opposed national positions. In the UK, Tony Blair was at the end of his tenure and about to hand over power to Gordon Brown, reputedly not an EU-enthusiast. In France, President Jacques Chirac had left the political stage with a very mixed record on Europe and the 'no-vote' on the Constitutional Treaty had further diminished French influence. The new President Nicholas Sarkozy gave rise to fresh hopes for leadership. However, he had attacked the EU on key issues during the French election campaign, such as the mandate of the European Central Bank, trade, and Turkish EU-membership. Finally Italy, the fourth largest member state, despite having a pro-European government, was dogged by domestic quarrels and uncertain majorities, hindering Prime Minister (and former Commission President) Romano Prodi from providing leadership at the European level.

The German government was well aware of the limited influence it might have and tried to tone down expectations.<sup>1</sup> Much of a Presidency's agenda is usually inherited from its predecessors or dictated by the legislative process running its usual course. And Presidencies of large member states are not necessarily always the most successful ones. The expected role of an 'honest broker' is sometimes hindered by the particularly strong interests of large countries. Unforeseen events on the international stage can suddenly dominate the agenda and absorb much of the Presidency's administrative resources and political attention. During its last Presidency in 1999, Germany had to deal with two such crises: the resignation of the Santer Commission and the Kosovo war.

All of this is not to say that a Presidency cannot make significant progress on certain issues. In 1999 Germany managed to secure an agreement on the EU's budgetary perspective for the period 2000-2006, the so-called 'Agenda 2000', after very difficult negotiations.<sup>2</sup> This time the biggest challenge for the Presidency was how to reach agreement on the road map for treaty reform, with or without the Constitutional Treaty as a basis. This uncertain prospect loomed large over the entire Presidency and the German government was eager to put other policy areas in the spotlight during the first half of its term. It successfully avoided the Constitutional Treaty

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\* **Sebastian Kurpas** is a Research Fellow at CEPS where his research focus is on EU institutional issues, treaty reform and European media. **Dr. Henning Riecke** is head of the programme on 'European Foreign and Security Policy' at the German Council on Foreign relations (DGAP) in Berlin. This working paper is based on a mid-term report of the German EU Presidency written by the authors for the Swedish Institute for European Policy Studies (SIEPS) in May 2007

(Retrievable at: [http://www.sieps.se/publ/occ\\_papers/bilagor/20071op.pdf](http://www.sieps.se/publ/occ_papers/bilagor/20071op.pdf)).

<sup>1</sup> See for example: *A preview of Germany's EU Presidency:*

*The Status of the Federal Government's Preparations*, Speech by State Secretary Reinhard Silberberg, 4.10.2006 (downloadable at <http://www.germany.info/relaunch/politics/speeches/101106.html>).

<sup>2</sup> The possibility of having to negotiate the budget again in the Presidency seat during the second half of 2006 made the German government exchange its period with the Finnish one. As biggest net-payer Germany did not want to be restricted by the Presidency's role as 'honest broker'.

becoming a central issue in the French presidential campaign. Also, Berlin did not want to be measured solely by progress on the constitutional issue in case things went wrong.

It could be considered fortunate that besides the roadmap for the constitution, no tricky negotiations or contentious projects needed to be finalised during the German Presidency, such as the financial perspective during the British tenure. Despite the limits imposed on every six-month Presidency, this situation opened up opportunities for new initiatives and political developments that helped avoid the impression of an EU in political paralysis.

This report will discuss the German Presidency's achievements in the main policy areas, starting with the goals sketched out in the Presidency's Programme and in major presentations by leading politicians. It will also give an overview of the main events and developments concerning the internal and external policies of the Union. An annex gives a brief outline of the Germany's EU policy, its role within the Union and the organisational outfit of the government in Berlin during the Presidency.

## Main issues for the German Presidency

Germany presented an ambitious Presidency work programme that covered all major EU policy areas.<sup>3</sup> The first half of its mandate put the economy, energy and climate change under the spotlight. These issues also dominated the spring summit at the beginning of March. In the second half, the constitutional question, or treaty reform, was the most prominent topic for the Presidency. The celebrations on 25 March for the 50<sup>th</sup> anniversary of the Treaties of Rome included the signing of the 'Berlin Declaration', which committed leaders to "placing the European Union on a renewed common basis before the European Parliament elections 2009". At the European Council on 21/22 June the Presidency secured the approval of all 27 governments for a detailed roadmap defining a clear mandate for the next intergovernmental conference. Besides the question of treaty reform, justice and home affairs and foreign policy have also been of particular importance.

In view of the wealth of activities, this overview will inevitably have to remain incomplete. Not all the activities of the European Union bodies will receive attention, only those areas that were given priority by the German Presidency. It would be a vast undertaking to sum up the developments in the EU in which the German Presidency was active. The report's approach is to look at where the Presidency had an intended impact or started initiatives designed to bring political momentum into the EU's legislation and decision-making. Even so, choices had to be made. Dossiers that gained the attention of some German bodies, but which did not make the summit headlines will not be scrutinised. On certain dossiers work had been carried out, but will not be covered here because no specific impetus came from Berlin, such as on EU enlargement.<sup>4</sup> In other cases, decisions will be covered that had long been in the 'pipeline', but did not need German influence to be accomplished, to survey the progress in policy fields, for instance in JHA. The point of departure is to follow the German's agenda and the statements of leading politicians. Looking at the issues Germany prioritised and leaving out the dossiers where Germany refused to take a leading role, might distort any analysis of the over-all impact. But the approach is fair when the task is to describe the profile of any EU Council Presidency, which will never have all areas on the agenda. Nevertheless, it would be interesting for later research to look at the reasons why Berlin gave specific issues less priority.<sup>5</sup> In the report, the

<sup>3</sup> See: *Europe – succeeding together*

[http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU\\_Presidency\\_Programme\\_final.pdf](http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU_Presidency_Programme_final.pdf) op. cit

<sup>4</sup> See Press and Information Office of the Federal Government, *Taking stock of the German EU Council Presidency*, Berlin, June 2007.

<sup>5</sup> See Press- und Information Office of the Federal Government, *Taking stock of the German EU Council Presidency*, Berlin, June 2007.

form of analysis will vary: on some topics, the EU Presidency's performance can be analysed by looking at legislative decisions. Other policy fields, such as external relations, demand a look at unfinished negotiations and travel diplomacy.

## 1. Economic Policy and the Internal Market

At the Lisbon summit in March 2000 European leaders declared that they would turn the EU into "the most dynamic and competitive knowledge-based economy in the world" by 2010. So far they have clearly fallen short of this ambition and key indicators show that during the first few years the gap between the EU and other important players (especially the US) has widened instead. In November 2004, a report of a high level group chaired by former Dutch Prime Minister Wim Kok was published.<sup>6</sup> The 'Kok Report' blamed the lack of success on several factors: an overloaded agenda, poor coordination, other conflicting agendas and not least a lack of political will for structural reform in the member states.<sup>7</sup> Acknowledging the shortcomings of the original Lisbon Agenda, it was thoroughly revised in 2005. It now puts stronger emphasis on 'growth and jobs' and member states have to elaborate three-year 'national reform programmes' (NRPs) which aim at giving them more ownership of the process. However, the Lisbon Agenda continues to build on the soft law approach of the so-called 'Open Method of Coordination' (OMC) that uses benchmarking and exchange of best practice among member states, instead of binding legislation. An example agreed by the Council during the German Presidency is the *Alliance for Families*. This initiative has been pushed by German Minister of Family Affairs Ursula von der Leyen and aims at the exchange of best practice on family-friendly policies among member states, in view of rapid demographic change.<sup>8</sup>

According to the Presidency's work programme a key priority was "shaping Europe's economic, social and environmental future", thus making reference to all three elements of the Lisbon Agenda. With closer inspection, focus on the economic and environmental aspects can be detected. Thus the work programme proposed further steps towards the completion of the Internal Market, listing a whole range of concrete initiatives. The following section will give an overview of the achievements on the different dossiers:

One concrete success was the *adoption of the Payment Services Directive (PSD)* by ministers in March, followed by the European Parliament in April. The Directive will make it easier for customers to use payment and credit cards throughout the EU and is thus an important step towards the declared goal of a 'Single Euro Payment Area' (SEPA).<sup>9</sup> It will now be transposed into national law and is likely to come into force by late 2009.

Agreement could also be reached on the *reduction of roaming tariffs*. The agreement entered into force before the summer holiday season when millions of Europeans flock to the beaches of Southern Europe. Like the SEPA it can be taken as evidence of a 'Europe of results' demonstrating to citizens the added value of the EU. For many observers the agreement came as a surprise, because the positions of the Council and the EP were still quite far apart at the beginning of May 2007. While the Council had agreed on higher and thus more industry-

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<sup>6</sup>See *Facing the Challenge – The Lisbon strategy for growth and employment*, Report from the High Level Group chaired by Wim Kok, at: [http://ec.europa.eu/growthandjobs/pdf/kok\\_report\\_en.pdf](http://ec.europa.eu/growthandjobs/pdf/kok_report_en.pdf)

<sup>7</sup>Ibid, p. 6.

<sup>8</sup>See *Council stresses social dimension of EU agenda*, in Euractiv, 12.3.2007,

at: <http://www.euractiv.com/en/socialeurope/council-stresses-social-dimension-eu-agenda/article-162388>

<sup>9</sup>See *Payment Services Directive - Frequently Asked Questions*,

at: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/152&format=HTML&aged=0&language=EN&guiLanguage=en>

friendly price caps, the EP insisted on lower, more customer-oriented tariffs. In the end the following three-step agreement was reached: From 30 June 2007 the ‘Eurotariff’ will come into force, which means that prices for outgoing calls are capped at €0.49 cent and prices for incoming calls at €0.24. One year later (2008), the cap will be lowered to €0.46 (€0.22 for incoming calls), and after another year, it will be lowered again to €0.43 (€0.19 for incoming calls).<sup>10</sup> In 2010 the regulation will cease to exist, hoping that by then market mechanisms will have started to function properly. While the overwhelming majority of reactions were very positive there were also a few critical voices concerned about excessive market intervention. The GSM Association (GSMA) suggested that companies might increase charges for national calls to make up for the losses in roaming charges.<sup>11</sup>

No agreement could be reached on a full *liberalisation of postal markets* however. This issue only concerns letters weighing less than 50 gm, as other parts of the postal sector have already been opened up for competition. The issue was discussed at a Council meeting on 7 June where a rapid liberalisation found the support of a group of ‘Northern’ member states that have already liberalised their markets, namely the UK, Finland and Sweden. Resistance came from a ‘Southern’ group, especially France, which refused to accept the proposed deadline of 2009 for fear that rapid liberalisation would destroy its public operators, claiming it would result in job losses and weaker customer services.<sup>12</sup> Germany is in favour of a European agreement on liberalisation, especially since this issue also has an important impact on the government coalition: the Social Democrats will only agree to the planned national liberalisation if a European agreement is found, while the Christian Democrats have confirmed their commitment to liberalisation in 2008 regardless of an agreement at the European level.<sup>13</sup> According to the Presidency Conclusions of the 21/22 Summit, the European Council “invites” the European Parliament, the Council and the Commission to find an agreement on the Directive “in due time”.<sup>14</sup>

Equally unsuccessful were the attempts of Finance Minister Peer Steinbrück to agree on a new system to counter VAT fraud. According to this ‘reverse charge model’ the tax debt for domestic transactions over a threshold of €5,000 would generally have been shifted from the company providing the service to the recipient company. Only Germany and Austria showed an interest in this model and the Council has now requested the Commission to present an impact assessment before the end of the year.<sup>15</sup> Another directive on the transferability of company pensions could not be adopted due to a veto from the Netherlands.<sup>16</sup>

<sup>10</sup> See *Parliament to clear EU mobile-calls tariff cuts* in: euractiv, 22.5.2007, at:

<http://www.euractiv.com/en/infosociety/parliament-clear-eu-mobile-calls-tariff-cuts/article-163903>

<sup>11</sup> Ibid.

<sup>12</sup> See *Postal Services Liberalisation*, in: euractiv, 10.4.2007, at <http://www.euractiv.com/en/transport/postal-services-liberalisation/article-161377>

<sup>13</sup> See *Steinbrück unterstützt Zumwinkel – Behält die Post ihr Monopol?*, in:

Frankfurter Allgemeine Zeitung (FAZ) 22.3.2007, at:

<http://www.faz.net/s/Rub28FC768942F34C5B8297CC6E16FFC8B4/Doc~E7F62CA211A474D018DA5FFF6A3362625~ATpl~Ecommon~Scontent.html>;

*Glos will von längerem Briefmonopol nichts wissen*, at:

FAZ,

<http://www.faz.net/s/Rub28FC768942F34C5B8297CC6E16FFC8B4/Doc~E43B31ADC4DB74DBAB9C69C1D200F0378~ATpl~Ecommon~Scontent.html>; 26.3.2007

<sup>14</sup> Presidency Conclusions, Brussels European Council 21/22 June 2007, p. 8 at: [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/94932.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/94932.pdf)

<sup>15</sup> *Steinbrück bleibt bei Umsatzsteuer hart*, in: Financial Times Deutschland, 23.4.2007, at: <http://www.ftd.de/politik/deutschland/:Steinbr%FCck%20Umsatzsteuer/189969.html>

<sup>16</sup> See *Neuer Anlauf für EU-Betriebsrenten-Richtlinie nötig*, in: finanzen.net,

at: [http://www.finanzen.net/news/news\\_detail.asp?NewsNr=532245](http://www.finanzen.net/news/news_detail.asp?NewsNr=532245)

A declared priority for the German Presidency was the reduction of *the bureaucratic burden* emanating from EU legislation. Angela Merkel explicitly mentioned the “cutback on bureaucracy” (“Bürokratieabbau”) as a focal point of the six-month term in her speech before the German Bundestag on 14.12.2006.<sup>17</sup> She pledged full support for German EU Commissioner Günter Verheugen on this issue. Verheugen’s efforts on ‘to cut red tape’ have only had limited success over the last few years – probably not least because most of the EU’s legal acts actually do serve a purpose. In many cases a European directive replaces 27 national laws and establishes a level playing field that is crucial for the functioning of the Common Market.

The Presidency’s achievements on this issue are mixed: on the one hand the Presidency did manage to get the European Council to agree on a 25% reduction of the administrative burden arising from EU legislation by 2012. The main problem will be how to actually measure this reduction. The Presidency Conclusions of 8/9 March therefore call on the Commission to launch an ‘Action Programme’ that should define the measurement of administrative costs of Community legislation. On the other hand, however, the Presidency has failed to reach agreement on bureaucracy reduction at the *national* level. Due to strong resistance from a number of countries, the European Council only “invites member states to set their own targets” by 2008.

## 2. Energy and Climate Change

Already in the early years of European integration, member states cooperated on energy through the Treaty on the European Coal and Steel Community (1952) and the Euratom Treaty (1957), but so far there has been no common European energy policy. In recent years guaranteeing secure and environmentally friendly energy has become an issue of growing importance, which makes a common approach at European level highly desirable. When Russia cut off its gas supplies to Ukraine in January 2006, several EU member states were directly affected, as their own supplies were interrupted. This served as a wake-up call to EU leaders. Since then public awareness of Europe’s dependency on foreign energy supplies from both Russia and the Middle East has grown. Beyond this, a strong motivation for a common energy policy stems from the shared threat of climate change. Since the Kyoto Protocol expires in 2012, a succession agreement will be needed. In October 2006 a report by the economist Sir Nicholas Stern was published that highlighted the global danger – also in economic terms – arising from climate change.<sup>18</sup>

At the EU level, the Commission presented a first general document (a so-called ‘Green Paper’) on energy in March 2006 putting forward *A Strategy for Sustainable, Competitive and Secure Energy*.<sup>19</sup> At the following spring summit on 23/24 March 2006, European leaders called for an Energy Policy for Europe (EPE) and invited the Commission and the Council “to prepare a set of actions with a clear timetable enabling the adoption of a prioritised Action Plan by the

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<sup>17</sup> *Government Declaration about the Double Presidency by Angela Merkel* before the German Bundestag on 14.12.2006, retrievable (in German) at: <http://www.bundesregierung.de/Content/DE/Regierungserklaerung/2006/12/2006-12-14-regierungserklaerung-bkin-doppelpraesidentschaft.html>

<sup>18</sup> See *Stern Review on the economics of climate change*, at [http://www.hm-treasury.gov.uk/independent\\_reviews/stern\\_review\\_economics\\_climate\\_change/stern\\_review\\_report.cfm](http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/stern_review_report.cfm)

<sup>19</sup> See EU Commission Green Paper, *A European Strategy for Sustainable, Competitive and Secure Energy*, (COM (2006) 105 final), Brussels, 8.3.2006, at: ([http://ec.europa.eu/energy/green-paper-energy/doc/2006\\_03\\_08\\_gp\\_document\\_en.pdf](http://ec.europa.eu/energy/green-paper-energy/doc/2006_03_08_gp_document_en.pdf)).

European Council at its 2007 spring session.”<sup>20</sup> On 10 January 2007 the Commission presented its Communication *An Energy Policy for Europe*<sup>21</sup> with concrete proposals for the Action Plan. It included measures for a ‘real Internal Energy Market’, security of supply, reduction of greenhouse gases, and energy efficiency among others.

From the outset the German government took the plans for the EPE Action Plan into account and made energy and climate change the most important priority of the first half of its Presidency. The work programme calls for the “*completion of the Internal Market for gas and electricity by 1 July 2007*” and states that the German Presidency will work to obtain “*the complete opening of markets for electricity and gas on the basis of blanket application of European legal provisions in all EU member states*”.

These ambitious aims stood somewhat in contrast to the Presidency’s start however, which was far from optimal. German commitment was called into question by two conflicts that received wide media attention. The first of these occurred after the Commission had presented its energy policy proposals on 10 January 2007, which included a proposal for “*full ownership unbundling*”, i.e. the separation of network ownership on the one hand and energy production and sales on the other. The Commission feared discrimination and abuse through combined network ownership and energy production and insisted that “*economic evidence shows that ownership unbundling is the most effective means to ensure choice for energy users and to encourage investment*”.<sup>22</sup> Alternatively the Commission proposed an “*Independent System Operator*” that would allow continued network ownership, but the owning company would no longer be responsible for operations, maintenance or development. The major German energy suppliers immediately voiced their opposition to full ownership unbundling and the Minister for Economics and Technology Michael Glos (CSU) claimed that it would endanger the security of supply and even be in contravention of the German Constitution.

A second conflict that challenged the Presidency’s credibility and demonstrated the powerful interests of German industry came up in January 2007 when Stavros Dimas, the European Commissioner for the Environment, presented ambitious plans for the *reduction of CO2 emissions from cars*. According to his plans the average emissions from new cars should be reduced to 120 gm/km by 2012, after it had become clear that the car industry’s own commitment in 1998 to reach 140 gram/km by 2008 would fail. Dimas’ plan was supported by German Environment Minister Sigmar Gabriel (SPD), but caused uproar among German car manufacturers. They mainly produce large cars that emit on average more CO2 than smaller models from France or Italy. The German industry once again received backing from Minister Glos who claimed that the Greek Commissioner did not sufficiently take into account the fact that thousands of jobs in the German car sector were at risk. The Commissioner for Industry, German Günther Verheugen (SPD) also spoke out against Dimas’ plan. He argued in favour of an ‘integrated approach’ that would include other measures for CO2 reduction than just car emissions (e.g. better tyres, driver training, more efficient traffic routing).

In the following months both conflicts were toned down: concerning car emissions, the Commission has tabled a preliminary compromise aiming at 130 gm/km due to more efficient engines and 10 gm/km coming from other measures (thus following the ‘integrated

<sup>20</sup> See Presidency Conclusions, Brussels European Council 23/24.3.2006 (7775/1/06 REV 1), at: ([http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/89013.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/89013.pdf)).

<sup>21</sup> See Communication from the Commission to the European Council and the European Parliament, *An Energy Policy For Europe*, Brussels, 10.1.2007

( COM (2007) 1 final), at: ([http://ec.europa.eu/energy/policy/doc/01\\_energy\\_policy\\_for\\_europe\\_en.pdf](http://ec.europa.eu/energy/policy/doc/01_energy_policy_for_europe_en.pdf))

<sup>22</sup> Ibid, p.7.



approach’).<sup>23</sup> Concrete legislation will probably only be proposed next year and it is currently not entirely clear whether Verheugen or Dimas will take the lead in elaborating the legislative draft. The conflict over ‘unbundling’ was eased – at least temporarily – through signals for compromise, aiming at an alternative to full ‘ownership unbundling’, as the Presidency Conclusions of 8/9 March suggested. During the last week of the German Presidency the issue once again made the headlines, however, when eight member states sent a letter to European Commissioners Andris Piebalgs (Energy) and Neelie Kroes (Competition). In this letter they speak out in favour of full ownership unbundling, seeking to influence the Commission proposals due in September 2007.<sup>24</sup> Key opponents of this approach remain in Germany and France.

The ongoing debate did not appear to affect the German Presidency further and the European summit on 8/9 March was widely judged a success for the German Presidency. This positive assessment is mainly due to agreement on an *Action Plan for an “Energy Policy for Europe”* (EPE), based on the Commission Communication of 10 January 2007. The Action Plan includes a sentence stating that the European Council “*agrees on the need for effective separation of supply and production activities from network operations (unbundling)*” without explicitly demanding full ownership unbundling. Leaders also commit member states to “*a binding target of 20% of renewable energies in overall EU energy consumption by 2020*”, while the amount each country will have to contribute remains subject to future negotiations. Countries opposing fixed targets were the Visegrad states and France – a direct talk between Angela Merkel and the outgoing President Jacques Chirac before the summit helped to break France away from this opposition coalition. Due to a special reference to the ‘energy mix’ it is not quite clear if and how the use of atomic energy will be taken into account for national contributions. These questions still hold much potential for future conflicts. France will certainly insist that nuclear power count towards the 20%, since 78% of its energy comes from this source. The question is certain to cause conflict with countries like Austria that have no atomic power plants at all. In Germany the discussion will lead to divisions between the coalition partners, since the Schröder Government (SPD and Greens) passed a law to phase out nuclear power. The Christian Democrats are likely to seize the European debate about national contributions, arguing that Germany would otherwise suffer comparative disadvantages.

The summit’s most widely reported achievement was the agreement on an *unconditional reduction of greenhouse gas emissions* of 20% by 2020 compared to 1990. The Presidency Conclusions still leaves open the question of how much the respective member states will have to contribute to reach the 20% reduction. This issue is likely to prove very contentious, but reaching a binding agreement on the headline goal certainly constitutes a first important step.

Leaders also formulated the objective of 30% by 2020, but only under the condition that other developed countries also commit themselves to “comparable emission reductions” and more advanced developing countries to “contributing adequately according to their responsibilities and respective capabilities.” Against the background of this agreement, Germany has used its present G8 Presidency to push other developed countries – especially the US – towards similar efforts. At their summit in Heiligendamm the G8 agreed to “seriously consider” a reduction of global CO<sub>2</sub>-emissions by at least 50% by 2050, although this declaration is subject to many conditions and is not legally binding. Leaders also agreed to pursue measures against climate

<sup>23</sup> See *Public consultation on the implementation of the renewed strategy to reduce CO<sub>2</sub> emissions from passenger cars and light-commercial vehicles*, at: [http://ec.europa.eu/reducing\\_co2\\_emissions\\_from\\_cars/index\\_en.htm](http://ec.europa.eu/reducing_co2_emissions_from_cars/index_en.htm)

<sup>24</sup> See *EU urged to force energy break-up*, Financial Times, 26 June 2007, at: [http://www.ft.com/cms/s/c946f65c-233c-11dc-9e7e-000b5df10621\\_i\\_rssPage=61e21220-6714-11da-a650-0000779e2340.html](http://www.ft.com/cms/s/c946f65c-233c-11dc-9e7e-000b5df10621_i_rssPage=61e21220-6714-11da-a650-0000779e2340.html)

change in the framework of a UN-process. This opened the way for negotiations about a follow-up agreement to the Kyoto protocol, which expires in 2012.<sup>25</sup>

### 3. Justice and Home Affairs

Over the last few years, justice and home affairs has been one of the most dynamic areas of European policy-making and is regularly mentioned when the argument of European ‘value-added’ is put forward. Common challenges, like global terror or illegal migration, are pushing member states towards closer cooperation. A European approach on legal migration is also necessary, as the populations of most member states are increasingly ageing and global competition to attract the most talented workforce is growing. With more Europeans travelling, working and living in other member states, there is also an increased need for agreements in the field of civil law, especially family law.

However, while the pressure for common solutions is growing, JHA dossiers are often at the core of national sovereignty and touch upon very sensitive issues, such as civil rights or data protection. In many areas member states insist on keeping their veto and EU treaty provisions vary widely depending on the issue. Following the Treaty of Amsterdam, matters concerning visa, asylum and migration have been moved to the so-called ‘first pillar’ (Title IV of the EC Treaty, art. 61-69 TEC). In many cases this means full ruling powers for the European Court of Justice, a Commission monopoly on legislative proposals and the European Parliament as an equal co-legislator to the Council. In contrast, the provisions for police and justice cooperation on criminal matters are still entirely intergovernmental (so-called ‘third pillar’, Title VI of the EU Treaty, art.29-42 TEU). Calls for a shift of third-pillar issues to the ‘communitarised’ first pillar on the basis of a ‘passarelle clause’ (art 42 TEU) were rejected by Germany and Ireland in 2006 in order to keep up the political pressure to save the Constitutional Treaty.

Germany presented an extensive and detailed agenda on justice and home affairs for its Presidency. The responsible ministers were the Minister of Justice, Brigitte Zypries (SPD) and the Minister of the Interior Wolfgang Schäuble (CDU). Ahead of the first Informal Meeting of Justice and Home Affairs Ministers in Dresden on 14/15 January, the three subsequent Presidencies of Germany, Portugal and Slovenia agreed on a joint work programme for justice and home affairs over the following 18 months.<sup>26</sup> The Ministry of the Interior also put forward a specific work programme on home affairs for the German Presidency called “Living Europe Safely”.<sup>27</sup> According to this programme the following general points were considered priorities:

- fighting international terrorism and cross-border crime more effectively,
- managing migration together,
- making progress on integration and intercultural dialogue.

The Presidency oriented itself on the implementation of the Hague Programme that defined the goals for justice and home affairs for the period between 2004 and 2009. During its six-month terms it produced certain concrete results.

<sup>25</sup> See Dokumentation – Die Beschlüsse der G8 in: tagesschau.de, 8 June 2007, at [http://www.tagesschau.de/aktuell/meldungen/0,1185,OID6894288\\_REF1\\_NAV\\_BAB,00.html](http://www.tagesschau.de/aktuell/meldungen/0,1185,OID6894288_REF1_NAV_BAB,00.html),

<sup>26</sup> See *First EU Trio Presidency of Justice and Home Affairs Ministers Gets Under Way*, Press Release, Berlin, 15.01.07 [http://www.bmj.bund.de/files/2a1759d42a354d4f5f51c2c68649cb3e/1618/150707\\_First%20EU-Trio.pdf](http://www.bmj.bund.de/files/2a1759d42a354d4f5f51c2c68649cb3e/1618/150707_First%20EU-Trio.pdf)

<sup>27</sup> Ministry of the Interior, *Living Europe Safely. Work programme for the German EU presidency*, Berlin, Dec. 06, at [http://www.bmi.bund.de/Internet/Content/Common/Anlagen/Broschueren/2007/Europa\\_sicher\\_leben\\_BMI\\_Arbeitsprogramm\\_dreisprachig.templateId=raw,property=publicationFile.pdf/Europa\\_sicher\\_leben\\_BMI\\_Arbeitsprogramm\\_dreisprachig.pdf](http://www.bmi.bund.de/Internet/Content/Common/Anlagen/Broschueren/2007/Europa_sicher_leben_BMI_Arbeitsprogramm_dreisprachig.templateId=raw,property=publicationFile.pdf/Europa_sicher_leben_BMI_Arbeitsprogramm_dreisprachig.pdf)

In February in Brussels the Ministers of the Interior agreed on the transposition of large parts of the *Treaty of Prüm into the legal framework of the EU*. This treaty (which is named after a small German town near Schengen in Luxembourg) was initially concluded in 2005 between seven member states outside the EU framework. It allows – among other things – automated access to vehicle registration data, DNA analysis and fingerprint data by the participating states. Through integration into the treaty framework the data will become accessible to all 27 member states and democratic scrutiny through the European Parliament is likely to improve. The Treaty of Prüm has been criticised as an attempt to create a ‘core Europe’ that would weaken EU institutions. If a transposition is successful, however, it could strengthen the position of those who see ‘external’ agreements as a constructive first step towards further European integration.

At their April Council meeting in Luxembourg the Ministers of the Interior reached an agreement on a regulation that establishes so-called *Rapid Border Intervention Teams*. Staff will be taken from a pool of 450 national experts who can be available at short notice to any member state whose borders are under “urgent and exceptional” strain by illegal immigration.<sup>28</sup> These teams will operate under the EU’s external borders agency FRONTEX and officers from other member states will be able to exercise executive powers in a team led by the member state hosting the operation.

On the ground, however, very little progress has been made over the last months. This is especially true for the problem of irregular immigration at the EU’s southern borders. Despite a deteriorating situation and many lives lost, member states have still not managed to agree on a proper system of burden-sharing concerning refugees saved from the Mediterranean. The operation ‘Nautilus’ to control the sea off the Italian and Maltese shores only started with much delay at the end of June 2007 and is struggling for resources.<sup>29</sup>

Germany did manage to get *Europol’s* mandate and resources extended. In recent months it has successfully pushed member states to implement amending protocols to the Europol Convention, which, for example, will allow Europol to participate in joint investigation teams set up by the member states.<sup>30</sup> Beyond this, Germany has managed to reach a political agreement on incorporating Europol into the EU’s legal framework. By 30 June 2008, the legal basis for Europol will be changed from the present Convention to a Council decision. This will avoid the lengthy ratification procedures required so far for any changes to the Europol Convention. In this context Germany also succeeded in extending Europol’s mandate to cover all forms of serious cross-border crime, even if not linked to organised crime (e.g. hooliganism).

Justice Ministers agreed on a *hate-crime law* in April that had been hotly debated for almost six years. In particular it was several new member states that had demanded that statements denying crimes committed under Stalin should be just as punishable as the denial of the Holocaust and Nazi crimes. As a compromise solution, the current text makes no explicit mention of either one. According to the text public incitement to violence or hatred for reasons of racism and xenophobia will be a crime in all member states. Equally the dissemination of writings with such content will be punished, as will “public approval, denial or gross trivialisation of genocide, crimes against humanity and war crimes”, if any of this amounts to racist or xenophobic agitation. Prison sentences will range from one to three years.

<sup>28</sup>See Goldirova, Renata *EU agrees rapid reaction anti-immigration units*, in: euobserver, 24.3.2007, at: <http://euobserver.com/22/23914>

<sup>29</sup> See *Start der Operation "Nautilus": Hilflohe EU-Maßnahme gegen Flüchtlingsboote*, in: tagesschau.de, 25.6.2007, at: [http://www.tagesschau.de/aktuell/meldungen/0,,OID6992682\\_REF1,00.html](http://www.tagesschau.de/aktuell/meldungen/0,,OID6992682_REF1,00.html)

<sup>30</sup> See *German Council Presidency welcomes the entry into force of the extension of Europol’s operational powers*, Press release, 20.04.2007, at: [http://www.eu2007.de/en/News/Press\\_Releases/April/0420BMIEuropol.html](http://www.eu2007.de/en/News/Press_Releases/April/0420BMIEuropol.html)

Some progress was also made in the area of family law, where guidelines for closer cooperation have been agreed, for example concerning the application of *divorce law for bi-national couples* (so-called Rome III Regulation). No agreement was reached however on *common minimum standards for accused persons in criminal proceedings*. Despite their unanimous commitment to the 2004 Hague Programme, only 21 member states proved to be willing to fulfil it, while six member states refused on grounds of principle to give the EU any influence over their national criminal procedural law.<sup>31</sup>

At their informal meeting in January, interior ministers already decided to set up an informal *High Level Group on home affairs* concerning the future of domestic security policy. It will consist of the Commissioner for Justice and Home Affairs Franco Frattini, the six interior ministers of the current and upcoming Trio Presidencies<sup>32</sup>, one representative of the following Trio Presidency<sup>33</sup> and experts from all member states as needed. The group is supposed to provide input and orientation on the future aims of domestic policy that go beyond the current Hague Programme. By autumn 2008 the group will submit a report that will form the basis for discussions before the successor programme to the Hague Programme (ending in 2009) is formally proposed.

With regard to its declared aims the Presidency's overall record on justice and home affairs has been positive. The coordination with the two following Presidencies is likely to prove especially useful, as JHA is often hampered by a complicated decision-making structure and national vetoes. Continuity of priorities and long-term trust building are therefore of particular importance in this policy area.

#### 4. A Mandate for the Intergovernmental Conference

The constitutional question certainly represented the greatest challenge for the German government, as the other governments and European citizens would judge much of the Presidency's success by the progress made in this area. On the one hand it was the most high-profile issue on the agenda; on the other hand it was an extremely complex and sensitive one. Germany presented a draft 'roadmap' with a time plan, concrete procedural steps and suggestions outlining the content of a renegotiated treaty that would have to be acceptable to all governments at the European Council on 21/22 June. On the basis of this draft, the heads of state then needed to agree a final text with concrete decisions on the continuation of the process. Germany had already received the mandate for this roadmap at the European Summit in June 2006 under the Austrian Presidency. On that occasion the heads of state and government had stressed that "the necessary steps" for the continuation of the reform process should have been taken "during the second semester of 2008 at the latest"<sup>34</sup> in order to have the new treaty agreed before the next EP elections. In the previous months the German Presidency had consulted the other governments in bi-lateral talks (so-called 'confessionals') about their expectations and reservations concerning the future of the Constitutional Treaty. Each government had to nominate two representatives (the so-called 'sherpas') to negotiate for their country. The drafting of the *Berlin Declaration* – the declaration for the 50<sup>th</sup> anniversary of the Treaties of

<sup>31</sup> For a full overview of achievements in the area of justice see *Freedom and Justice in Europe – The German EU Presidency – Final Report on Justice* at:

[http://www.bmj.bund.de/files/640d73a61173eecb67f8aa6ba7eb3532/2268/EU-Bilanz\\_EN.pdf](http://www.bmj.bund.de/files/640d73a61173eecb67f8aa6ba7eb3532/2268/EU-Bilanz_EN.pdf)

<sup>32</sup> Germany, Portugal, Slovenia and France, the Czech Republic, Sweden

<sup>33</sup> Spain, Belgium, Hungary

<sup>34</sup> Presidency Conclusions, European Council 15/16 June 2006,

p. 18, at: [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/90111.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/90111.pdf)

Rome – was a first occasion for the Presidency to test the ground.<sup>35</sup> A valuable benefit of the ‘sherpa-approach’ was the growing personal trust among negotiators, although in the beginning some complained that direct negotiations were too limited and too much of the intercourse was carried out via e-mail.<sup>36</sup> As a consequence, the German Presidency ensured more direct contacts for the negotiations on the roadmap.

Parliamentarians, NGOs and the public were hardly involved at all in the drafting of the Berlin Declaration and the German government was criticised for the secrecy of the talks, which stood in strong contrast to the wording of the text. The Declaration repeatedly takes the perspective of the citizens (“We, the citizens of the European Union”) while it had actually been negotiated between a handful of government officials behind closed doors. To be fair, however, it must also be mentioned that even the little information leaked to the press already suggested that open talks would have ended in disagreement about the most basic issues.<sup>37</sup> Such open controversies would have undermined the very rationale of the Berlin Declaration, which was meant to demonstrate unity towards the public and create a positive atmosphere among leaders for the upcoming negotiations on the roadmap. The Declaration does not have legal value, but the fact that the text was only signed by representatives of the three main institutions<sup>38</sup> and not by all national leaders indicates the sensitive nature of the political conflicts addressed.

The Declaration and the surrounding festivities were constructive, despite certain negative comments from Czech President Vaclav Klaus and his Polish counterpart Lech Kaczynsky. Both complained about having been rushed into an agreement and were especially unhappy about the only sentence of the Declaration that can be understood as a concrete commitment: “(...) we are united in our aim of placing the European Union on a renewed common basis before the European Parliament elections in 2009.”<sup>39</sup> The deadline of 2009 implies a very ambitious time schedule for negotiations and this is taken up again in the roadmap. To stay within this time-limit the incoming Portuguese Presidency will immediately have to call an Intergovernmental Conference (IGC), to be concluded by the end of 2007 at the latest in order to leave enough time for ratification. Such a short IGC will simply not allow the opening up of complicated issues again.

In the run-up to the European Summit, two camps were beginning to emerge: one advocated a ‘Constitutional Treaty Minus’ while the other one wanted a ‘Treaty of Nice Plus’. The first group consisted of the seventeen governments that had ratified the Constitution<sup>40</sup> plus the German<sup>41</sup>, Portuguese and Irish governments. They would actually have preferred the Constitutional Treaty in its original form, but came to accept that the text would not be

<sup>35</sup> See Declaration on the occasion of the fiftieth anniversary of the signature of the Treaties of Rome, (Berlin Declaration), Berlin, 25.3.2007, at: [http://www.eu2007.de/de/News/download\\_docs/Maerz/0324-RAA/English.pdf](http://www.eu2007.de/de/News/download_docs/Maerz/0324-RAA/English.pdf)

<sup>36</sup> See Johannes Leithäuser, *Dramatische Diskretion. Wie die „Berliner Erklärung“ entstand*, in: FAZ, 23.03.07

<sup>37</sup> For example, it was reported that initially the British Government was even opposed to mentioning the Euro in the Declaration.

<sup>38</sup> Angela Merkel for the current Council Presidency, EP President Hans-Gert Pötering and Commission President José Manuel Barroso

<sup>39</sup> The Czech President was also unhappy about this date, as his country will hold the EU Presidency during the first half of 2009 and might thus have to ‘celebrate’ a new treaty that he would prefer to treat as ‘business as usual’.

<sup>40</sup> Austria, Belgium, Bulgaria, Cyprus, Estonia, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Romania, Slovakia, Slovenia, Spain.

<sup>41</sup> Strictly legally speaking, Germany has not ratified the Constitutional Treaty despite high majorities in both the Bundestag and the Bundesrat. Federal President Horst Köhler has not signed the ratification act yet, after the Federal Constitutional Court accepted to rule on a complaint by a member of parliament. The ruling has still not taken place.

presented to the French and Dutch for a second time. They therefore argued in favour of the existing text as the only basis for renegotiations and for preserving as much as possible of it.

The opposing group wanted to take the existing treaties as a starting point. Acknowledging the need for institutional reform, these governments clearly favoured a simple ‘amending treaty’ in the tradition of the Treaty of Amsterdam or the Treaty of Nice. This group included the UK, the Netherlands and – after the victory of Nicolas Sarkozy in the presidential elections – France.<sup>42</sup> Blair, Balkenende and Sarkozy clearly spoke out in favour of a solution that would spare them a referendum in their countries. The idea of a ‘Treaty of Nice Plus’ also enjoyed support from the Czech and Polish governments and – more tacitly – from the Swedish and Danish ones.

At the end of April Merkel sent out a letter with 12 concrete questions for the other leaders that should have helped to build a new consensus.<sup>43</sup> Already then the German Presidency signalled its consent to drop the name ‘Constitutional Treaty’ and other elements that may appear as state-like symbolism, including the title ‘Foreign Minister’.<sup>44</sup> At this point it had also become clear that the treaty reform would revert to the traditional method of an ‘amending treaty’: The existing treaties would be amended instead of repealed, as would have been the case by the Constitutional Treaty.

However, these concessions did not seem to be enough for some of the governments. The debate in the run-up to the European Summit became increasingly dominated by the UK wanting a lowest common denominator solution and Poland demanding major changes to the new voting system.

Only a few days before the summit, Tony Blair set out four ‘red lines’ before the House of Commons. He insisted that he would not accept any treaty that would:

- Allow the Charter of Fundamental Rights “to change UK law in any way”
- “Replace the role of British foreign policy and its foreign minister”
- Take away the British ability to control its common law and judicial and police system
- Move anything to qualified majority voting that would have a large say in the UK’s own tax and benefit system.<sup>45</sup>

Blair then stated that if these four red lines were to be observed, however, he could not see any reason for a British referendum. His tough position caused concern among his European colleagues and was even denounced as blackmail.

Different, but equally difficult, was the position of the Polish government. For several months it had consistently signalled its opposition to the new ‘double majority’ voting system in the Constitutional Treaty. It did not feel bound by the signature of its predecessor, claiming that the rule *pacta sunt servanda* did not apply anymore, since the original text would never enter into force anyway. Under the Nice rules Poland has a very favourable position: it holds 27 votes with a population of only 38 million people, compared, for example, to Germany with 29 votes but 82 million people. Instead of the double majority system in the Constitutional Treaty (55% of states, 65% of population), the Polish government proposed a double majority system that

<sup>42</sup> Sarkozy’s own words contrast with recent statements from his advisor Alain Lamassoure who said that Paris would try to stick as much as possible to the original text, see: Kubosova, Lucia: France wants to save major parts of the EU constitution. Sarkozy aide says, in: euobserver, 08.05.2007, at <http://euobserver.com/18/24015>

<sup>49</sup> Mahony, Honor, *Germany sends out letter to salvage EU constitution*, in: euobserver, 23.04.2007, at: <http://euobserver.com/18/23921>

<sup>44</sup> See Busse, Nikolas, *Verzicht auf den Außenminister? Die deutsche Ratspräsidentschaft sucht nach einem Konsens für die erneuerte EU-Reform*, in: FAZ, 3.5.2007.

<sup>45</sup> See *Blair sets out EU treaty demands*, in: BBC News, 18.6.2007, at: [http://news.bbc.co.uk/1/hi/uk\\_politics/6763121.stm](http://news.bbc.co.uk/1/hi/uk_politics/6763121.stm)

would replace the element ‘population’ with the “*square-root of the population*”.<sup>46</sup> Re-opening this issue could have opened up ‘Pandora’s box’, as other countries might also have called for amendments and changes to the voting system. The negotiations over the Treaty of Nice in December 2000 had been very much dominated by questions of voting weights and made it very difficult to reach an agreement at the time.

Angela Merkel devoted a lot of energy trying to convince the Polish leadership, particularly during her visit to Poland in March. At the same time she ensured that Blair or other supporters of a ‘mini-treaty’ did not side with Poland for tactical reasons. The only country that profits equally from the Nice voting system in the same way as Poland is Spain. Interestingly, however, the Spanish Prime Minister Zapatero has always been one of the strongest supporters of the Constitutional Treaty and even got the text through a referendum. Poland therefore remained isolated on this issue, but still threatened to bring the process to a halt with its veto.

The summit itself saw heated debates and dragged on – as foreseen – into the early hours of Saturday, 23<sup>rd</sup> June. In the evening of the 22<sup>nd</sup> June an agreement seemed within reach in Brussels, but then the Polish Prime Minister Jaroslaw Kaczynski gave a press conference in Warsaw stating that the deal proposed to his brother Lech was not acceptable. At this point Angela Merkel threatened to agree on a mandate for the IGC with only 26 member states and thus sideline the Polish government. This would have still left the Polish government a veto in the IGC, but it would also have underlined the country’s isolation. Two countries, the Czech Republic and Lithuania, then signalled that they would not be in favour of such an approach. Finally Blair, Sarkozy and the Luxemburg Prime Minister Jean-Claude Juncker tried to convince the Polish leaders and – together with the German Presidency – they finally succeeded in finding a compromise that was acceptable to Poland. It mainly consists of a huge delay in the double majority system and some additional safeguards.

The new voting system will now only come into force in 2014 and for an additional three years any member state can demand a recalculation of the votes according to the Nice system. If a different majority is obtained, the Nice system will then still apply. Additionally the so-called Ioannina compromise will apply from 2014 onwards, which will ensure that if 75% of a blocking minority is reached (from 2017 onwards even only 55%), talks in the Council will have to continue. This must happen, however, within a “reasonable time” and “without prejudicing obligatory time limits laid down by Union law”. Since the summit Jaroslaw Kaczynski has already caused confusion, as he claims that there had been a ‘gentlemen’s agreement’ to interpret ‘reasonable time’ as meaning up to two years. This version has been clearly contested by other leaders.<sup>47</sup>

Despite these hitches, the agreed mandate for the IGC was a success for the German Presidency. Besides the amendments to the double majority voting system and the fact that the new ‘double-hatted’ foreign minister will again just be called ‘High Representative’, all symbolic allusions to a state-like nature of the EU were also eliminated from the text, including the EU flag and anthem. To be sure, these symbols will live on, but will have no place in the legal framework of the EU. Apart from these concessions, Merkel successfully managed to ‘ring-fence’ all of the institutional provisions of the Constitutional Treaty. All in all about 90% of the original text will be saved if the mandate for the IGC is observed. Among the provisions saved is the new post of a permanent Council President, with a term of two and a half years, and a reduction in the number of Commissioners to 2/3 of the number of member states by the year 2014.

<sup>46</sup> Concretely this would mean that Poland would have about two thirds of Germany’s votes (instead of just half of Germany’s votes, as it is proposed in the current Constitutional Treaty).

<sup>47</sup> See Kaczynskis neue Forderungen: Polen vergrätzt EU Partner, in: Spiegel Online, 29.6.2007, at: <http://www.spiegel.de/politik/ausland/0,1518,491512,00.html>

The agreement of the UK, however, came at the price of numerous opt-outs (e.g. on the Charter of Fundamental Rights and on the former 3<sup>rd</sup> pillar dealing with police and judicial cooperation on criminal matters). While the new treaty will make the Union somewhat more democratic and efficient, it will also render it even more complicated and less transparent than before. As a nod to Dutch demands to include the Copenhagen Criteria on political and economic conditions for accession candidates, the new text will make changes to Article 49 TEU on the eligibility of new members. It will contain ‘a reference to the Union's values and the addition of a commitment to promoting such values’, as preconditions for accession<sup>48</sup>.

Another element that should be mentioned at this point are the newly introduced means to curb the Commission's right of initiative, which also go back to an initiative of the Netherlands: a simple majority of national parliaments can oppose to a legal initiative within eight weeks of its presentation on the grounds of a breach of the principle of subsidiarity. In this case the Commission has to re-examine the draft. If the Commission then still wishes to continue without amendments, the proposal can be stopped by 55% of member states in the Council or a majority of votes in the European Parliament. This ‘orange-card-procedure’ is a potentially powerful tool for national parliaments, but its impact will depend on the actual capacity of national parliaments to coordinate their positions.

Besides the growing concern for subsidiarity, the many opt-outs, clarifications and declarations also show that the appetite for further integration varies widely across member states. A Europe of different speeds is thus likely to receive a new boost. The German Permanent Representative Wilhelm Schönfelder suggested after the summit that the upcoming IGC could well be the last of its kind. According to the Ambassador, member states would increasingly turn towards the approach used for the Treaty of Prüm: a ‘coalition of the willing’ will start an initiative outside (or even inside) the EU treaties and will then invite other, more hesitant member states to join at a later stage.<sup>49</sup> Such an approach would of course further complicate matters and add to the charge of the Union lacking transparency.

The European Council summit was carried by a widespread attitude among the delegates that an achievement was at hand, and that this opportunity should not be lost. The most important result was certainly the fact that the trickier political disputes were settled before the Intergovernmental Conference under the Portuguese Presidency. The ‘roadmap’ points a clear way out of the constitutional crisis and the institutional stalemate blocking the EU over the last two years.

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*External relations* also featured on the German Presidency's agenda. They were not as clear-cut and prominent on the to-do list as other issues, but nevertheless carried the danger of attracting large public attention if they failed. In external relations, many initiatives and unresolved problems kept Berlin busy, as this incomplete list shows:

In January, the first (German) EU-Battle Group became operational. The German Presidency did not rouse much fanfare, in order not to invite hasty speculation as to where the unit could be put into action.

In February, Germany, together with the five permanent members of the UN Security Council, debated new sanctions against Iran's nuclear weapons programme at a meeting in London.

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<sup>48</sup> See European Council, Brussels 20/21 2007, Presidency Conclusions, Annex I. Draft IGC Mandate, (11177/07), Brussels, 23. June 2007, para. 16, p. 19 ([http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/94932.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/94932.pdf))

<sup>49</sup> Speech given by Ambassador Wilhelm Schönfelder in Tervuren, Belgium on 26 June 2007.



In March, a large Berlin Conference under the auspices of the Ministry of Economic Cooperation and Development floated the idea of an EU Africa Energy Forum, spreading ideas of efficiency and the use of renewable energies. Through an EU-Africa Troika meeting in May, the Presidency also laid the groundwork for the formulation of a joint EU-Africa Strategy.

In April, The German government circulated a proposal for a multilaterally organised nuclear fuel supply at the NPT Review conference.

In May, the EU negotiated a new framework document with the UN, formalising a prominent relationship between the two organisations, to enhance the partnership and discuss possible deployments.

In June, the Foreign Ministers Council had a meeting with the G4 (EU, USA, Brazil and India) to discuss prospects for the Doha Trade negotiations, without substantial agreement.

Since this report cannot offer a thorough overview of all the activities in the area of external affairs during the German Presidency, the paper will focus on two key strategic partnerships and discuss developments in two prominent crisis regions.

## 5. Relations between the EU and the US

Improving transatlantic relations is one foreign policy priority of the Grand Coalition in Berlin. The underlying understanding is that the bilateral relationship has global implications: no challenge in a globalising world can be better tackled than in cooperation with the US. The Social Democrats in the government do not question that, and even during the dispute over the war in Iraq, cooperation went on smoothly in other areas like the combat against terrorism.

During the German EU Council Presidency, the transatlantic agenda focused primarily on the strengthening of the Euro-Atlantic economic space, since the US and the EU are each other's most important economic partners. In 2005, together they generated 57% of global economic output and around 40% of world trade. Imports and exports in goods of the EU-25 in total amounted to €2.2 trillion in 2005, those of the US worldwide came close to €2.1 trillion. 14% of European imports come from the US, and 24% of its exports go to America. Besides trade, it is actually direct foreign investment and foreign affiliate sales that create the highest turnover.<sup>50</sup>

The transatlantic economic partnership generally runs smoothly. Trade disputes like the one about subsidies for Boeing or Airbus do not jeopardise that, but rather bear witness to a high degree of interdependence. Nevertheless, transatlantic trade could develop more freely if a number of non-tariff barriers separating the two economic spaces from each other could be abolished. For the sake of growth and prosperity, the two economic heavyweights should seek to make their cooperation more efficient. Decision-makers on both sides of the Atlantic have insisted that the bilateral talks are not designed to undermine the Doha trade talks or to confront growing economic powers like China and India.

Yet the hope of creating a framework for deeper political and economic institutionalisation has only seen slow progress over the past decade. The attempts to create bilateral arrangements to ease trade restrictions following the 'New Transatlantic Agenda' of 1995, with a number of

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50 The US exports 21% of its goods to Europe and has delivered close to 19% of its imports from the EU. The US exports a large number of services (€93 bn vs. €109 bn from the whole EU-25). Foreign direct investment and foreign affiliate sales taken together cover an even bigger share of the transatlantic economic activities. See *From free trade to deep integration: Outlook on economic relations between the EU and US* (Deutsche Bank Research, Reports on European integration, EU Monitor 45) April 18, 2007 at [http://www.dbresearch.com/PROD/DBR\\_INTERNET\\_EN-PROD/PROD000000000209719.pdf](http://www.dbresearch.com/PROD/DBR_INTERNET_EN-PROD/PROD000000000209719.pdf); Daniel S. Hamilton, Joseph P. Quinlan, *Partners in Prosperity: The changing Geography of the Transatlantic Economy* (Center for Transatlantic relations, Johns Hopkins University, Paul. H. Nitze School of Advanced International Studies) Washington, DC 2004.

forums like ‘Transatlantic Business Dialogue’ did not suffice to help the partners overcome core barriers and went into deadlock in 2002.<sup>51</sup> The recent policy initiatives build upon the ‘Initiative to Enhance Transatlantic Economic Integration and Growth’, agreed at the EU-US summit in June 2005. Its overall goals were, among others, to promote regulatory cooperation, to facilitate the movement of people and goods, to stimulate a competitive capital market and to foster technological innovation, especially in the area of energy efficiency, and to secure intellectual property rights. These efforts were expanded at the EU-US summit in Vienna in 2006.

The path towards deeper economic partnership was thus laid when Germany took over the EU Presidency, seeking deeper commitments, a broader agenda and a new overall agreement. Merkel’s plans for the Presidency first centred on the idea of a Transatlantic Free Trade Zone (TAFTA), put forward by Christian Democrat colleagues from the European Parliament and the Bundestag. There was not much enthusiasm for this in Brussels or in Washington. Tariffs only cover a very small amount of transatlantic trade but are difficult to eliminate. The real need is for harmonisation and mutual recognition of standards. A bilateral TAFTA could well be seen as a signal that the EU and US no longer take the global trade talks in the Doha round seriously. EU Commissioner Peter Mandelson criticised this aspect of the idea.<sup>52</sup>

When Merkel described creating structures similar to the Single Market between the US and the EU at the World Economic Forum in Davos as a long-term objective, the focus shifted away from an FTA towards an integrated market, a broader goal that could be addressed with gradual achievements. On the road to a transatlantic single market, something not too many politicians would endorse at this point in time, harmonised regulation, mutually recognised standards, or common rules for financial transactions would be necessary steps.<sup>53</sup>

In early January, Angela Merkel paid an inaugural visit to Washington as EU Council President. The most prominent topic was the revival of the Middle East Quartet, but the economic cooperation and the energy-climate nexus had high priority as well. At an important conference convened by the CDU/CSU parliamentary group in the Bundestag, Merkel noted that it would be easier to mutually recognise the national certification systems than to negotiate common standards. Joint efforts should concentrate therefore on new technologies, where entrenched regulation does not exist, such as bio- or nano-technology.<sup>54</sup>

President George W. Bush praised the German Chancellor for being an important advisor with considerable influence, when Merkel and Barroso travelled to the summit in Washington on 30 April 2007. He referred to the harsh reactions of the Russians and many Europeans to the elements of the US missile system in Europe and the need to better involve Moscow in the project. He and Merkel talk regularly over a secure video line between the White House and the Chancellery.<sup>55</sup>

A core result of the summit was a ‘Framework Agreement’ on transatlantic economic integration. In annex, special interest is given to five areas as ‘lighthouse’ projects.

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<sup>51</sup> See van Scherpenberg, Jens, *Die Integration des Atlantischen Wirtschaftsraums*, (Stiftung Wissenschaft und Politik, SWP-Studie S 24), September 2006, at [http://www.swp-berlin.org/de/common/get\\_document.php?asset\\_id=3296](http://www.swp-berlin.org/de/common/get_document.php?asset_id=3296), and the 2007 EU-U.S. Summit. Economic Progress Report, Washington, 30.4.2007, at <http://www.bundestkanzlerin.de/Content/DE/Artikel/2007/04/Anlagen/2007-04-30-economic-progress-report.property=publicationFile.pdf>

<sup>52</sup> See Braml, Joseph, Schmucker, Claudia, *Barrieren im atlantischen Wirtschaftsraum*, in: IP, 62/3 (March 2006), 100-103.

<sup>53</sup> See Kafsack, Hendrick, *Transatlantischer Wirtschafts(t)raum*, in: FAZ, 28.4.2007; Dunsch, Jürgen/Knop, Carsten, *Merkel für “Binnenmarkt” mit Amerika*, in FAZ, 25.1.2007

<sup>54</sup> Bovenstein, Nina, *Merkel warnt vor Abschottung*, in: SZ, 20.3.2007

<sup>55</sup> Klüver, Reymer, *Lob für die Ratgeberin*, in: SZ, 2.5.2007

- Both sides agree to cooperate on the exchange of information and personnel, provide technical assistance to curtail trade with goods that affect *intellectual property rights*.
- *Trade security* shall be improved and made more efficient to lower the costs for companies, through the elimination of duplicated controls.
- To enhance *financial markets*, both sides agree to mutually recognise the two competing balancing methods in the US and Europe (Generally Accepted Accounting Principles and International Financial Reporting Standards) until 2009.
- To bring forward *innovation and technology*, a number of collaborative measures are on the priority list, such as the development of best practices for Radio Frequency Identification technologies or a work plan on transatlantic cooperation on bio-products.
- A regular dialogue will scrutinise the conditions of *financial investment*.<sup>56</sup>
- An influential Transatlantic Economic Council has been established. It convened for a preliminary meeting in Berlin on June 28, agreeing on a work plan. Two high level officials, US Cabinet-level official in the White House Allan Hubbard and EU Vice-President Guenter Verheugen, are co-chairs of the Council. Its tasks are to supervise the implementation of the Framework Agreement, and add some dynamism by identifying areas for closer cooperation. The first meeting with full participation should take place before the end of the year.

Harmonisation will concentrate on the pharmaceutical and cosmetics industry, including provisions limiting animal testing for the latter. For the automobile industry, mutual recognition of testing standards is another step forward. Different approaches on financial balancing will be harmonised.

At the summit the transatlantic commitments on climate and energy policy fell short of the hopes of the German EU Presidency. Friction arose between the negotiators at an early stage over the idea of agreeing on binding caps for green house gas emissions. The EU states had just accepted these at the spring session of the European Council, and many hoped it would serve as a model for other actors to move on towards better climate protection. During Merkel's January visit Bush made it clear that the US would not rely on renewable energies alone but would seek to improve the energy efficiency of existing technologies. Nuclear energy plays a crucial role in American considerations, but Merkel cannot go along with the US view. She is the head of a coalition that has a feeble consensus to phase out atomic energy in Germany.

No quantifiable commitment was made at the summit, but both sides at least went so far as to acknowledge that climate change is a global challenge and that as much as possible should be done to decrease the man-made irritations of the climate system. This meagre result represents some progress, bearing in mind that until recently the US government failed to accept the fact that human emissions cause global warming. The EU and the US promised to engage in joint projects to develop low-emission power plants and biofuel.<sup>57</sup> At the Heiligendamm summit of the G8 in June, the conflict over binding commitments came up again, with the Bush and Merkel governments disputing in the media. This time, the delegations negotiated a compromise to 'seriously consider' capping greenhouse gases globally by 50% by 2050.

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<sup>56</sup> See Framework for advancing transatlantic economic integration between the European Union and the United States of America, Washington DC., 30.4.2007, at:<http://www.bundestkanzlerin.de/Content/DE/Artikel/2007/04/Anlagen/2007-04-30-transatlantic-economic-integration.property=publicationFile.pdf>

<sup>57</sup> 2007 EU-U.S. *Summit statement. Energy Security, Efficiency, and Climate Change*, Washington, 30.4.2007, at <http://www.bundestkanzlerin.de/Content/DE/Artikel/2007/04/Anlagen/2007-04-30-energy-security.property=publicationFile.pdf>

One of the visible successes of the EU-US summit was the signing of an ‘Open Skies Agreement’ about the opening of the air traffic markets in the US and the EU, which will enter into force on 30 March 2008, after year-long negotiations.<sup>58</sup> Air services on both sides of the Atlantic will have a new legal framework. European carriers will see fewer regulations when operating in the USA. They can now fly to the US from the EU and from countries inside the European Aviation Area. European investment in American airlines remains strictly limited. A completely liberalised transatlantic market for air services is therefore not in sight.

In addition, the US has promised to work for the extension of the USA Visa Waiver Program to all EU states – citizens from twelve EU member states still need to obtain a visa, even for short trips.<sup>59</sup>

All in all, the Merkel-Barroso visit to Washington was successful, with regard to the intentions expressed and to the atmosphere during the summit. The overall process of economic integration received considerable impetus. The number of economic activities and the level of integration open up opportunities to gain benefits through efficiency measures. The pragmatic and incremental progress made in economic relations did however not ameliorate the persistent transatlantic differences that came up in the first half of 2007, such as those over Guantánamo, the US missile defence shield or the robust military conduct in Afghanistan.

## 6. EU Relations with the East

The most ambitious and lasting project of the German Presidency is the vision to create an overarching framework for relations with Russia and the EU’s Eastern neighbours. Germany has a natural interest in the political and economic stability of Russia and Eastern Europe. In close cooperation with the Commission, the German EU Presidency picked up a number of closely related dossiers for developing EU external relations with the East. Berlin acted as provider of impetus and interlocutor for the European level, but has a clear priority list on which Russia ranks high.<sup>60</sup> Yet, in this crucial area, Germany had to face failure, as Russia gave an idea of how assertive and difficult a partner it could be during the first half of 2007, in a concerted campaign of obstruction and offensive diplomatic gestures.

Ideally, the different policy agendas could become interdependent over time. The EU needs to keep Russia as a stable ally, with a strategic partnership built upon shared interest and values. It seeks a re-negotiated partnership and cooperation agreement. The new contract would strengthen economic ties, secure the mutual dependence based on energy trade and investment, enable both sides to cooperate on many foreign policy areas and help democratise Russia. But even a Russia with a different attitude towards democracy and pluralism could be a partner in a reformed European Neighbourhood Policy (ENP). The new ENP would aim at more individualised work plans and a new focus on joint problems, not only development. The final piece of the puzzle would be to foster the underdeveloped relationship the EU has with the countries of Central Asia, a strategy that the Commission has requested Germany to sketch

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<sup>58</sup> EU ministers endorsed the agreement on 25 April 2007, which had been initialled in early March. See Tiefensee: *The air services agreement with the USA is a first step towards a new partnership.*

*EU Transport Council in Brussels agrees on Open Skies*, Press Release, at [http://www.eu2007.de/en/News/Press\\_Releases/March/0322BMVBSUSLuft.html?](http://www.eu2007.de/en/News/Press_Releases/March/0322BMVBSUSLuft.html?)

<sup>59</sup> See also EU presidency Statement on Transatlantic Relations to the Plenary of the European Parliament on 25.04.2007 at [http://www.eu2007.de/en/News/Speeches\\_Interviews/April/0425AAGloserUSA.html?](http://www.eu2007.de/en/News/Speeches_Interviews/April/0425AAGloserUSA.html?)

<sup>60</sup> See Timmermann, Heinrich, *Die deutsch-russischen Beziehungen im europäischen Kontext*, in: *Internationale Politik und Gesellschaft*, 1 /2007, 101-122.

out.<sup>61</sup> Energy supply plays a huge role in this complex interaction, as well as the hopes of the EU's immediate neighbours that the ENP might be a prequel to membership.

This vision was promoted early on with some vigour under the headline *Neue Ostpolitik* by the social democratic Foreign Office in Berlin - an allusion to the paradigm shift initiated by the Chancellor Willy Brandt in the 1970s. This is not to say that Merkel would not support a more energetic neighbourhood policy, but the CDU-led Chancellery had hesitations about resting the new structure on a strategic relationship with Russia.<sup>62</sup>

## 6.1 Russia

Russia is both an important and difficult partner in energy policy and trade and increasingly a political and economic competitor of the EU in the East. Russia's claim to dominance is the source of many of the problems the EU faces in defining its relations with adjacent regions. Many Western observers expected a democratic transformation to take root in Russia, having the value system of Europe as a model on which to build stability. The increasingly repressive style of the government of President Vladimir Putin proves this expectation over-optimistic for the time being. Building a strategic relationship with Russia might force Europe to live with painful contradictions, especially since many Russians dismiss the idea of negotiating other people's values. Nevertheless, there is no way round a deep and interdependent relationship to secure stability at the EU's Eastern borders. Russia is also an indispensable partner with regard to many challenges the EU has to face. This should not stop the EU from monitoring and supporting human rights in Russia, however.

For more than a decade, both sides have been working to develop their strategic partnership. The institutional ties are firm, providing a packed schedule of joint meetings at all levels.<sup>63</sup> The relationship is based on the Partnership and Cooperation Agreement of 1997, which will expire in November this year and on documents relating to the EU strategy of the four 'Common Spaces' formulated in 2003 (spaces of economy, of freedom and justice, of cooperation towards external security and of research and education).

In Europe, there is a broad understanding that a new and wider partnership agreement should be negotiated. (An alternative would be to live with the existing and partly outdated framework, with annual renewals.) For the European planners, a new document should incorporate the provisions achieved in the four spaces and should include new principles for the mutual energy partnership. This is also a work plan laid out in the German Presidency. On the 50<sup>th</sup> anniversary of the signing of the Rome Treaties, Putin congratulated the EU and said that a new partnership agreement would follow the logic of the developing relationship.<sup>64</sup> A good opportunity for signing a mandate would have been the EU-Russia summit scheduled for May in the peaceful Volga town of Samara.

At this important juncture, however, Russia is presenting itself as a complicated partner. The German Presidency had to cope with a number of disputes and confrontations that have added to

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<sup>61</sup> For an overview over this policy paradigm see Steinmeier, Frank Walter, *Verflechtung und Integration. Eine neue Ostpolitik der EU*, in: *Internationale Politik* 62/3, March 2007, 6-11.

<sup>62</sup> Gutschker, T., *Nuchterne Ostpolitik*, *Die politische Meinung*, 51 (Dezember 2006) 445,9-12, at [http://www.kas.de/db\\_files/dokumnete/die\\_politische\\_meinung/7\\_dokument\\_dok\\_pdf\\_9629\\_1pdf](http://www.kas.de/db_files/dokumnete/die_politische_meinung/7_dokument_dok_pdf_9629_1pdf).

<sup>63</sup> See EU Commission,

*EU-Russia relations*, at [http://ec.europa.eu/comm/external\\_relations/russia/intro/index.htm#eu](http://ec.europa.eu/comm/external_relations/russia/intro/index.htm#eu) and European Commission, *Country Strategy Paper 2007-2013: Russian Federation*, at [http://ec.europa.eu/comm/external\\_relations/russia/csp/2007-2013\\_en.pdf](http://ec.europa.eu/comm/external_relations/russia/csp/2007-2013_en.pdf)

<sup>64</sup> See *50 Jahre Römische Verträge: Putin schmeichelt Europa*, in: FAZ am Sonntag, 24.3.2007

the underlying mistrust and made the task of negotiating a mandate for the partnership negotiations even more difficult.<sup>65</sup>

One persistent cause for concern that stayed with the Presidency from the outset is that Russia uses its energy resources as political leverage. Russia's energy companies, like Gazprom, are being increasingly nationalised and follow political objectives rather than economic ones - although Russia has been a reliable energy provider for years. Foreign investors have insufficient legal security to control their investment. This is all the more important since Russia needs foreign investment to modernise its aged refinery and pipeline infrastructure. Gazprom is also a strong player on the European market through investment in the European energy industry and economic partnerships with third countries that might help Europe to diversify its energy resources – Algeria, for instance. The threat that Russia might engage in the creation of a gas cartel with partners from the Persian Gulf is taken seriously in Europe.<sup>66</sup> All these problems have suddenly become more acute, because the EU has come to understand the degree of its dependency on Russian oil, and even more on Russian gas.

One of the first actions of the German EU Presidency was to complain about Russian strong-arm tactics against energy transit countries. The most recent victim of this has been Belarus, following the Ukraine, Georgia and Lithuania in earlier years. The flow of oil coming through the Druschba Pipeline from Russia through Belarus to German refineries stopped for a couple of days in early January without prior warning, after some disputes over payment for surplus oil from Russian exports that Minsk sells to the West.<sup>67</sup> Merkel and Barroso sharply criticised the closing of the pipeline. After a joint meeting between the Commission and the German Cabinet in January they told Russia that it should have consulted the EU partners in advance. While the provision of oil inside the EU was not in danger – the EU has stocks for about four months – confidence in Russian exports was shattered. A European Union energy strategy and early warning mechanisms between the Union and Russia became all the more urgent.<sup>68</sup>

The case overshadowed the early days of the German EU Presidency and seemed to be a bad omen for the Russia dossier. Angela Merkel stated openly that the disruption had caused an 'irritation' on the European side, and that the new partnership agreement must enshrine energy security for Europe.<sup>69</sup> The double strategy of the European Union must be to combine a deeper and more balanced partnership with Russia, based on mutual dependence and a commitment to open market principles, with diversification in energy sources and transit lines. German understanding is that the new partnership agreement would provide a framework for all this.

The EU had expected to start off with the negotiations for a new partnership agreement under the Finish Presidency at the EU-Russia summit in Lahti in November 2006. However, at that time Poland blocked a mandate for negotiations. It demanded that Russia sign the Energy Charter, to make it easier for Warsaw to wrestle control over Polish transit pipelines from Gazprom. Poland is also still frustrated about a planned gas pipeline from Russia through the Baltic Sea to German ports that would sideline Polish territory. Russia, in retribution, has set up

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<sup>65</sup> For a more comprehensive overview, see Singhoven, Sven C., *Deutschland und Russland zwischen strategischer Partnerschaft und neuer Konkurrenz. Ein Vorschlag für die Praxis.* (Konrad-Adenauer-Stiftung, Arbeitspapier 169/07), Berlin/Sankt Augustin, February 2007

<sup>66</sup> See *European Energy Security: A bear at the throat*, in: *The Economist*, 14.4.2007, 27-29; Ludwig, Martin, *Nur ein Hirngespinnst?*, in: *FAZ*, 20.4.2007

<sup>67</sup> See Fischer, Peter A., *Moskau gibt Minsk den Tarif durch: Weißrussland muss Zolleinnahmen mit Russland teilen*, *NZZ*, 15.1.2007

<sup>68</sup> See Bannas, Günter, *„Inakzeptabel“: Merkel und Barroso kritisieren Schließung der „Druschba“-Pipeline/Kurzbesuch bei Putin geplant*, in: *FAZ* 10.1.2007

<sup>69</sup> See *"Wir wollen verlässliche Beziehungen"*, Interview Federal Chancellor Angela Merkel, *Wall Street Journal*, 22.01.2007, at [http://www.bundeskanzlerin.de/nn\\_5300/Content/DE/Interview/2007/01/2007-01-22-merkel-wsj.html](http://www.bundeskanzlerin.de/nn_5300/Content/DE/Interview/2007/01/2007-01-22-merkel-wsj.html)

import restrictions on Polish meat and vegetables, stating that wrongly labelled meat from Ukraine had reached the Russian market via Poland. Warsaw wants Moscow to abolish the restrictions before a partnership agreement can be renegotiated. This blockade could not be solved during the German term.

The scope of a negotiation mandate is subject to political negotiations, although the partnership talks will lie in the hands of the Commission. At several meetings in Russia and Warsaw, Merkel and the Troika tried to persuade Putin to change course, but the talks did not result in an agreement.<sup>70</sup> In the German view, a Russian concession could be better achieved through negotiations than through coercion.

In the meantime, other negative developments burdened the Russia dossier. The dispute over the plan to set up elements of the US missile defence system in Eastern Europe, though not directly related to the EU, was an obstacle for negotiations between Brussels, Berlin and Russia. At the 43rd Munich Security Conference in early February, Vladimir Putin had bluntly criticised the American plan to build radar and missile launch pads in Eastern European countries and accused America of defying international law in its foreign policy.<sup>71</sup> This caused some disputes about how far the EU should give in to seemingly irrational reactions from Russia in order to secure a partnership. This debate caused some friction between the coalition partners. Steinmeier, taking Russian security concerns seriously, was more hesitant to confront Russia than his CDU colleagues. Merkel later reconciled the positions, demanding that the discussions be transferred to NATO.<sup>72</sup> The missile shield issue was no salient point on the EU agenda, but took time off the schedule during the EU-USA summit in April.

Even more a cause for concern was the oppressive government style in Russia and violence against the opposition and media. Under Putin's Presidency, critics and journalists have been killed, the most prominent ones being the unresolved cases of Anna Politkovskaya in October and Alexander V. Litvinenko in November 2006. The televised abuse of protesters and foreign journalists at protests in Moscow in April led to harsh criticism from the EU.<sup>73</sup> Merkel criticised the treatment of protesters before the summit in Samara. Many observers voiced unease about the painful political concessions in too close a partnership.

Facing these incremental negotiations that met new obstacles everyday, the EU's chief trade negotiator, Peter Mandelson, issued an alarming assessment of EU-Russia relations in April. Both sides, said the Commissioner, had reached a level of misunderstanding not seen since the end of the Cold War. He accused Russia of using its energy resources as a political weapon and pointed to the EU as being unable to speak with one voice.<sup>74</sup>

Many hopes rested on the EU-Russia summit in Samara on May 18. The EU stepped up its activities to prepare for the summit. In talks in April, the interlocutors Markos Kyprianou, the EU Health Commissioner, and Alexei Gordeyev, Minister of Agriculture in Russia failed to come to an agreement. The EU had even offered to ease visa regulations for Russians as an

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<sup>70</sup> Treffen in Sotschi: *Merkel verlangt von Putin „bessere Kommunikation“*, in: FAZ, 23.1.2007, Ludwig, Michael, *EU-Troika trifft Lawrow: Gespräche über Energie, Kosovo und Partnerschaftsabkommen*, FAZ, 6.1.2007, Schuller, Konrad, *Merkel in Warschau: „Wir deuten die Geschichte nicht um“*, in: FAZ, 17.3.2007

<sup>71</sup> See Bacía, Horst, *„Ein kalter Krieg war wirklich genug“: Gates Antwort auf Putin-Schelte/Sicherheitskonferenz in München*, FAZ, 12.2.2007

<sup>72</sup> The latest stage of the escalation over the US missile defence shield was the Russian announcement to freeze the implementation of the Treaty on Conventional Forces in Europe See Bacía, Horst, *Moskaus neuer rauher Ton*, in: FAZ, 28.4.2007

<sup>73</sup> See Voss, Julia, *Geiseln des Staates: Russland beschweigt die Eskalation der Gewalt*, FAZ, 20.4.2007

<sup>74</sup> Bilefski, Dan, *Senior EU aide issues warning on Russia ties*, in: IHT, 23.4.2007.

incentive<sup>75</sup>, but it was not united on how tough its position towards Russia should be. At a Foreign Minister's Meeting before the summit, Lithuania sided with Poland in its opposition to starting negotiations with Russia. Reportedly, the Polish Foreign minister Anna Fotyga complained, to little avail, that Polish interests were not sufficiently represented by the German EU Presidency. The Eastern European member states asked for a tougher stand against Russia and proposed a 'reflection phase' before negotiations should start. Only days before Samara, Minister Steinmeier made an unscheduled visit to Moscow, to remove obstacles and to tone down expectations. The German government had lowered the bar: a negotiation mandate would no longer be on the agenda, but rather several smaller agreements with Russia.<sup>76</sup>

The Samara summit gave mixed pictures. The talks between the Putin government, Merkel and Barroso were open and constructive. Small progress was made though initiatives on an early warning mechanism for energy security and on improved conditions for foreign direct investment. Open dissent over the treatment of members of the Russian opposition, who were forcibly kept from a protest event at the summit venue, cast a shadow over the final press conference. In better times, the summit would have been called a disaster, but the general feeling prevailed that talks would go on. Putin could not capitalise on the European dissent, because Merkel represented a unified EU, stating that conflicts like the meat embargo were not of a bilateral nature but between Russia and the entire EU.<sup>77</sup>

## 6.2 The European Neighbourhood Policy

Separate from the discussions about EU-Russia relations, the European Neighbourhood Policy (ENP) is about to enter a new phase. The ENP, created in 2003, is thought to be an overarching paradigm for neighbourhood relations with the East and the South. The ENP is aiming at prosperity, stability and security in neighbouring countries. Yet the attractiveness of the ENP is limited because it is seen as an alternative to accession, which incenses the Eastern European countries especially. Individual action plans have been set up with each partner. Russia refuses to take part in ENP.<sup>78</sup>

In the summer of 2006, the Grand Coalition issued a paper written by Foreign Office planning staff, saying that Eastern Europe would be a priority for the EU Presidency. Germany wanted to improve the ENP, to tie its partners closer to the EU *acquis* and to integrate them better into European decision-making. It was felt that the focus should be on converging interests, for instance concerning energy policy or the Single Market.<sup>79</sup> Germany paid special attention to the ENP partners in Eastern Europe, while the succeeding EU Presidency Portugal will focus on the South.<sup>80</sup>

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<sup>75</sup> *EU hofft weiter auf Abkommen mit Russland*, in: NZZ, 24.4.2007; *EU and Russia fail to resolve dispute*, in: IHT, 23.4.2007

<sup>76</sup> Martin Winter, *Probleme, die sich Übereinander schieben*, in: SZ 15.5.07; *win. Aufregung im Vorfeld des EU-Russland-Gipfels*, in: NZZ, 15.5.2007

<sup>77</sup> Wulf Schmiese, *Tacheles an der Wolga*, in: FAZ, 19.5.2007

<sup>78</sup> See Koopmann, Martin, Lequesne, Christian (Hrsg.), *Partner oder Beitrittskandidaten: Die nachbarschaftspolitik der Europäischen Union auf dem Prüfstand*. (ASKO Europa Stiftung, Denkrat Europa 2) Baden-Baden 2006

<sup>79</sup> Germany wanted to adjust the ENP budget, of which Eastern Countries receive only a small part. See Frankenberger, Klaus-Dieter, *Berlin entwickelt eine neue Nachbarschaftspolitik für die EU*, in: FAZ, 3.7.2007, more specific Kempe, Iris, *Was sind die Pfeiler einer „Neuen Ostpolitik“ im Rahmen der Deutschen EU-Präsidentschaft*, in: *Caucas europenews*, 19.3.2007, at [http://www.caucas.com/home\\_de/breve\\_contenu.php?id=230](http://www.caucas.com/home_de/breve_contenu.php?id=230)

<sup>80</sup> Hanns-D.; Machowski, Heinrich, *Dimensionen einer neuen Ostpolitik der EU*, in: APUZ, 10/2007, at [http://www.bpb.de/publikationen/9CA1BS,0,0,Dimensionen\\_einer\\_neuen\\_Ostpolitik\\_der\\_EU.html](http://www.bpb.de/publikationen/9CA1BS,0,0,Dimensionen_einer_neuen_Ostpolitik_der_EU.html).



The EU Commission took up the German initiative and published a Communication in December 2006, timed to run parallel to the ENP progress reports. The Commission looked at the overall ENP, not only to the East. The strategy proposed new measures like strengthening trade through tailor-made Free Trade Agreements, easing visa regulations for the mobility of the citizens of ENP countries, dialogue and cooperation on cross-cutting issues like energy and stronger regional cooperation.<sup>81</sup>

The new paradigm of the ENP should be to focus on problems shared by the EU and its neighbours. Based on more individualised action plans, it would allow for a closer participation of ENP countries in EU policies and the Single Market, according to specific needs. Foreign Minister Steinmeier said at a press conference to present the Presidency programme that the EU should cling to an overarching neighbourhood policy, but “I believe we must do more here – for all of the EU’s neighbours, in the East as in the South. This means greater cooperation in individual sectors, possible participation in the internal market and more scientific and cultural exchange.”<sup>82</sup> Germany was given the mandate to develop ideas about the ENP plus and to present a report to the European Council in June 2007.

The German Council Presidency supported the ENP progress with close contacts and travelling diplomacy. In March, *Ukraine* entered into a negotiation about a new and improved cooperation agreement with the EU. A Free Trade Arrangement between the EU and Ukraine is under discussion, but the Ukraine has to join the WTO first.<sup>83</sup> The Troika, with Minister Steinmeier, travelled to Kiev in early February. Victor Yushchenko, the victor of the Orange Revolution in 2004, and Victor Yanukowitch, Ukraine’s pro-Russian Prime Minister, came to Berlin subsequently but separately in February. Both promised to overcome their political impasse – which they did before the EU-Ukraine cooperation council in Luxemburg took place on June 18. Steinmeier also travelled to the Caucasus in February 2007. He used his meetings in *Georgia*, *Armenia* and *Azerbaijan* to signal the EU’s intentions and to promote the new design of the ENP. The three countries had only signed the ENP action plans with the Commission in November 2006. A great deal of time during Steinmeier’s trip was spent on talks about the open secessionist conflicts and the energy interests of the producer and transit countries. He also used this opportunity to promote German energy policy.<sup>84</sup> The Presidents of the three countries travelled to Berlin in the first four months of 2007. Meanwhile, as if to remind the ENP partners not to forget Russia’s ability to divide and conquer, the Putin government invited the leaders of the seceding provinces of Abkhazia, South Ossetia, Transnistria and Nagorno-Karabakh to Moscow, held them in the rank of ‘Presidents’ and labelled their countries as strategic partners.<sup>85</sup>

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<sup>81</sup> EU Commission, *Communication from the Commission to the Council and the European Parliament on strengthening the European Neighbourhood Policy*, (COM(2006)726 final), Brussels, 4.12.2006, at [http://ec.europa.eu/world/enp/pdf/com06\\_726\\_en.pdf](http://ec.europa.eu/world/enp/pdf/com06_726_en.pdf). Since January 2007, the Commission has a new financial tool: the European Neighbourhood and Partnership Instrument (ENPI) makes it possible to base assistance on political criteria and is better suited to support trans-border projects. Under the new framework, 12 b € will be available for ENP until 2013. The EU now spends 38% for the more numerous Eastern countries (up from 30% in the earlier period), while 62% goes to the southern countries (70%). See Antonio Missiroli, *The ENP three years on: where from – and what next?* European Policy Centre (EPC Policy Brief) Brussels: March 2007, p. 3

<sup>82</sup> Introductory remarks by Federal Foreign Minister Steinmeier, at the press conference launching the German EU Council Presidency, 19.12.2006, at [http://www.eu2007.de/en/News/Press\\_Releases/January/1912AA.html](http://www.eu2007.de/en/News/Press_Releases/January/1912AA.html)

<sup>83</sup> See Schuller, Konrad, *Ein dorniger Weg*, in: FAZ, 4.3.2007

<sup>84</sup> See Gasasjan, Aschot, *Südkaukasus: Neue Partner jenseits des Schwarzen Meeres*, DW-Radio, Deutsche Welle, at <http://www.dw-world.de/dw/article/0,2144,2361238,00.html>

<sup>85</sup> See Leithäuser, Johannes, *Steinmeier hofft auf Lösung im Streit um Karabach*, in: FAZ, 21.2.2007; *ibid.*, *Eine Region neuer Dynamik*, in: FAZ, 22.2.2007; Dempsey, Judy, *Letter from Germany: EU’s good neighbors are Russia’s bad dream*, in: IHT, 7.3.2007

Germany finally issued a Presidency report for the June summit, taking stock of the measures applied in the first half of 2007. Among others, the document notes progress in the cooperation on energy and migration policy and outlines conditional economic integration and financial inducements as the next steps of a deepened ENP. The report also reiterated the separation of ENP and enlargement – without prejudging to the negative, that ENP countries could never become members.<sup>86</sup>

Although frictions between the EU and Russia affected the inner European discussions about the ENP, Germany managed to separate the two dossiers. This made progress on the ENP possible, but also meant the postponement of any integrated agendas. Russia will still have to play a role in the build-up of the regional element of the ENP, the enhanced Black Sea Cooperation.

### 6.3 *The Black Sea and Central Asia*

The ENP Plus approach of the German Presidency and the Commission has an element of deeper regional cooperation. Two regions receive special attention, regions that share the fate of being energy producers or transit countries. The Black Sea and Central Asia are focal points of the energy security interests that drive parts of the German Presidency agenda.

With the accession of Romania and Bulgaria, the EU now borders the Black Sea. The idea is to create a framework to improve regional cooperation among the six coastal countries and their neighbours. The high priority on the Black Sea is a direct implementation of the regional element of the new ENP, but must include countries outside it, like Russia and Turkey. The initiative will not proceed without friction, because the region is not a group of like-minded states.

The EU Commission issued a strategy paper ‘Black Sea Synergy’ in April, to create a partnership programme similar to the Euro-Mediterranean Cooperation or the Northern Dimension. It would incorporate existing EU sector programmes in areas like good governance, mobility, energy, transport, environment, maritime policy, trade and many others. The Commission paper has obviously benefited from ideas from the German Foreign Office and demands significant funds to help the member states build secure energy infrastructure.<sup>87</sup> To be successful, the EU initiative must also help to create synergies for the diverse actors inside the EU that manage relations with the region.<sup>88</sup>

The strategy does not seek to create a new institutionalisation, so it builds upon existing structures. Direct consultations between the EU and ENP partners are supposed to be linked to the regular meetings of the Black Sea Economic Cooperation (BSEC) that has only been operational since 1999.<sup>89</sup> The BSEC should be seen as a potential partner, since some sub-regional forms of cooperation do not have to include all BSEC members.

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<sup>86</sup> Strengthening the European Neighbourhood Policy, Presidency Progress Report. General Affairs and External Relations Council, Luxembourg, 18.19.6.2007 (10874/07)

<sup>87</sup> See Vesper, Reinhard, *Wieder Schwierigkeiten mit Russland*, in: FAZ, 27.3.2007; Piehl, Ernst, *Vertiefte Schwarzmeerkoooperation im Interesse der Europäischen Union* (Friedrich-Ebert-Stiftung, Thema aus Brüssel), Brussels, March 2007.

<sup>88</sup> See Gabanyi, Anneli Ute, *Die Initiative »Schwarzmeersynergie« Die EU plant den Ausbau ihrer regionalen Zusammenarbeit* (SWP-Aktuell 2007/A 29), Mai 2007 at [http://www.swp-berlin.org/de/common/get\\_document.php?asset\\_id=3978](http://www.swp-berlin.org/de/common/get_document.php?asset_id=3978)

<sup>89</sup> See EU Commission Communication from the Commission to the Council and the European Parliament, *Black Sea Synergy - a new regional Cooperation Initiative* (COM(2007) 160 final), Brussels, 11.04.2007, at [http://ec.europa.eu/world/enp/pdf/com07\\_160\\_en.pdf](http://ec.europa.eu/world/enp/pdf/com07_160_en.pdf)

Germany tried to ensure that the Black Sea initiative remains on the agenda. In the final days of the Presidency, a Troika with State Minister and regional expert Gernot Erler travelled to the recent BSEC summit to initiate talks. In the first half of 2008, the EU will seek a review of the implementation of the initiative.

Another regional strategy is underway for Central Asia, comprising five former Soviet Republics. This is not part of the ENP; more a political drive to include the 'neighbours of the neighbours' in the neighbourhood approach. The growing attention towards Islamic extremism and the need to diversify its energy resources led the EU to rethink its half-hearted approach towards this contested region. The Union primarily needs to clarify its own interests and options here.<sup>90</sup>

Germany took over the task of developing an EU Central Asia Strategy until the end of its term. For this a Troika travelled to Astana, the capital of Kazakhstan at the end of March for two-day talks with the Foreign Ministers of Kazakhstan, Uzbekistan, the Kyrgyz Republic, Tajikistan and Turkmenistan. The meeting was not only the first the EU had held with these countries, but also the first meeting the Central Asian Ministers had held together. Steinmeier and the Troika made efforts not to appear to seek energy partnerships alone, but offered assistance in creating legal systems and education programmes. The meeting did not, however, run smoothly. The Central Asians were clearly seeking foreign investment and quite openly refused to be lectured on democracy.<sup>91</sup> The first elements of a Central Asia Strategy were presented at the Foreign Ministers Council in Luxemburg in April. Some observers feared that the new openness would undermine the EU's sanctions policy against Uzbekistan.<sup>92</sup> During a talk in Andijan, EU experts had access to political prisoners.<sup>93</sup> On the last day of the Presidency, the five Foreign Ministers came to Berlin where Steinmeier presented the Central Asia strategy. The paper puts existing instruments into a new context, with priority on fostering human rights, the rule of law, education and economic development and a focus on energy, traffic, and water management. It also initiates a network of dialogues on these issues.<sup>94</sup>

In both regions, competition with Russia is now a reality. The EU is supporting oil and gas pipelines to link Europe to the Central Asian oil fields, most of them running through the Black Sea region, like the expected NABUCCO-Gas pipeline. At the same time, Russia is building and developing its own pipelines to gain control over the networks or make the EU's project less profitable.

A cautious assessment of the German EU Presidency shows that there is a considerable overlap of interests with the Eastern partners. The EU finds itself in competition with an evermore confident Russia. The vision of mutually endorsing regional strategies and strategic partnerships, with Moscow serving as a stable anchor, is very hard to achieve. The aims should be defined more pragmatically, so that the progress in regional cooperation can be seen as a

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<sup>90</sup> See Mac., *Die Europäische Union bemüht sich um Zentralasien*, in: NZZ, 2.4.2007; Brauer, B., *Fünf Staaten, eine Strategie: die deutsche EU-Ratspräsidentschaft sucht einen neuen Zugang zu Zentralasien*, *Internationale Politik*, 62 (März 2007) 3, 75-81.

<sup>91</sup> See Schmiess, Wulf, *Die "Tankstelle Europas" anzapfen*, in: FAZ, 29.3.2007. Steinmeier travelled to Turkmenistan in November 2006, shortly before he would carry the EU's Presidency flag. See Veser, Reinhard, *Der Turkmenbaschi war guter Stimmung*, in: FAZ, 4.11.2007

<sup>92</sup> See Lobjakas, Ahto, *EU: Ministers Discuss Strategy For Central Asia*, in Radio Free Europe/Radio Liberty, 23.4.2007, at <http://www.rferl.org/featuresarticle/2007/04/be30f11d-d578-4b84-b69f-6dfdd59cd5ea.html>

<sup>93</sup> Veser, Reinhard, *EU beunruhigt über Usbekistan*, in: FAZ, 7.5.2007

<sup>94</sup> The EU-Central Asia cooperation will receive an enlarged budget, growing from an annual amount of 58 Mio. Euro in 2007 to 139 Mio. Euro in 2013. Vgl. *Die EU und Zentralasien: Strategie für eine neue Partnerschaft*, at: <http://www.auswaertiges-amt.de/diplo/de/Europa/Aussenpolitik/Regionalabkommen/Zentralasien-Strategie-Text-D.pdf>

success. Russia seems to challenge the weaker countries of the EU's Eastern margin. The pressure that Russia directed at the Estonian government over the removal of a Red Army monument – with the heated protests of the Russian minority in Estonia and against the Estonian Embassy in Moscow – showed the kind of confrontation the EU will probably have to deal with in the future.<sup>95</sup> It would appear that Russia is testing the EU to see if it really is an alliance. However, such behaviour will make it impossible to create a partnership based on mutual trust. It is a challenging contradiction for European policy towards the East that the building of a close and confident partnership with Russia might take decades to materialise, but that Moscow's cooperation is needed now to settle conflicts in Europe.

## 7. The Status of Kosovo

The negotiations on the independence of Kosovo demanded the full attention of the German EU Presidency, as Berlin expected that the UN Security Council would take its decision on the status of the Kosovo province within the German term. While the vast majority of Albanians in Kosovo seek independence, Serbia will not accept this, although certain forms of far-reaching autonomy seem to be negotiable. A failure to produce a settlement, or a mishandling of the transition, would have local and regional repercussions. Until June, Russian opposition forced the Western states to postpone the launch of a respective resolution.

The German Presidency's work plan illustrated the triple challenge that might have fallen into the hands of Germany. It stressed the need to stabilise the Balkans, "particularly by supporting the Kosovo status negotiations or implementing the outcome if an agreement has been reached by then. To achieve this EU will conduct its largest civilian ESDP mission to date, concentrating on justice and the police."<sup>96</sup> The EU was engaged in producing a UN resolution, however without a result. With more success it prepared to take over the administrative authority and police forces in Kosovo. The German EU Presidency had to be concerned that a failure to solve the status question might provoke violence in Kosovo or Serbia, which might then jeopardise the stability in neighbouring countries like Bosnia-Herzegovina. Such a scenario might even have affected the security of EU member states. Germany was not only involved as the country holding the EU Presidency, but also as a member of the Balkan Contact Group, together with the US, Russia, France and the UK. The Contact Group is the most important framework in the negotiations.

In March 2007, after more than a year of consultations, the special envoy of the UN Secretary General Martti Ahtisaari presented a report and a set of recommendations to the Security Council, proposing a form of supervised independence for Kosovo.<sup>97</sup> His lengthy negotiations with the local actors had reached an impasse and further talks would have made a settlement even more difficult. His proposals seek to secure a multi-ethnic society in Kosovo that is based on the principles of democracy and the rule of law. The recommendations included a number of measures to guarantee security for all ethnic groups in the country.<sup>98</sup> According to the Ahtisaari Plan the Security Council would have to lift the territorial guarantees Serbia received after the Kosovo War. The province would declare independence and would then have to agree to a new constitution with extensive minority rights. Afterwards, other states could recognise Kosovo as

<sup>95</sup> Vesrer, Reinhard, *Die alten Vorwürfe*, FAZ, 9.5.2007.

<sup>96</sup> See *Europe – succeeding together*, Presidency Programme

<sup>97</sup> The report had been postponed until after the Serbian parliamentary elections on 21 January 2007. It has as yet not been possible to form a government coalition in Belgrade.

<sup>98</sup> UN Security Council, *Report of the Special Envoy of the Secretary-General on Kosovo's future status*, 26.3.2007 (S/2007/168) at <http://www.unosek.org/docref/report-english.pdf>; Bacia, Horst, Warten auf Russland, in: FAZ, 11.4.2007.

an independent state. 120 days after the independence, the EU would take over the administrative control of Kosovo from the UN. NATO would continue to provide the military stabilisation force KFOR. The Albanian Kosovars support the Ahtisaari Plan and have begun to prepare for the new situation.

In the second half of March, the US started discussions in the Security Council and the Contact Group about a resolution. Washington is trying to open up the deadlock and to send a positive signal to the Muslim world at the same time. Russia, sympathising with Serbia, worked hard to delay the decision: Moscow asked for a detailed report about the implementation of the earlier Resolution 1244 on Kosovo, demanding further negotiations and a fact-finding mission.<sup>99</sup> Russians and Serbs lobbied the undecided Security Council members energetically. They tried to play on the fears of African countries that the imposed independence would spur secessionist movements in their countries as well. Kosovo envoys have also been active. The US is currently working on a UN resolution to withdraw Resolution 1244, to either force Russia to negotiate a settlement or go into isolation. At the same time, the EU was trying to link the question of Kosovo's independence with the EU accession of Serbia, only to sweeten the loss of the province for Belgrade. Serbia could not expect to approach the Union with an unresolved territorial conflict.

The Europeans themselves were seen to diverge on the status question. While having welcomed the Ahtisaari plan at first, some EU members disagreed with its recommendations. At an informal meeting of Foreign Ministers in Bremen on 1 April, a splinter group of countries emerged that opposed the speedy move towards the independence of Kosovo. It included Greece, a traditional ally of Serbia, Romania, Slovakia, Spain and Italy – countries that lie in the Kosovo neighbourhood or have ethnic secession conflicts on their soil. At the following meeting of Foreign Ministers in Luxemburg, the Kosovo topic had to be kept off the agenda. In talks with the Russian colleague Sergei Lavrov immediately afterwards, the EU had no joint position on the Ahtisaari plan.<sup>100</sup> At the Foreign Affairs Council in June, however, the EU produced a clear statement in support of Ahtisaari's proposal as basis for a settlement. The Union's responsibility for the stabilisation mission has been undisputed throughout this debate.

Even without a clear time frame, the EU is preparing for the takeover in Kosovo, which is a large operation with complex executive functions. An International Civil Representative (ICR), doubling up as the EU Special Representative (EUSR), will oversee the implementation of the settlement and will have a number of executive powers. The ICR/EUSR – a possible candidate is the Dutch diplomat Peter Feith – will head a 72-strong team of international staff in Pristina. A second structure the EU is preparing is a rule of law mission under the European Security and Defence Policy (ESDP) that will comprise 1300 to 1500 international police forces, judges, prosecutors and customs officials based in Kosovo.<sup>101</sup> Only recently, Turkey added new complications, reiterating its unwillingness to support a technical agreement for the cooperation between the NATO and EU missions.<sup>102</sup>

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<sup>99</sup> Martens, Michael; Schwarz, Karl-Peter, *Moskau und Belgrad wollen Kosovo Abstimmung verzögern*, in: FAZ, 3.4.2007

<sup>100</sup> See Rettman, Andrew; Krasniqi, Ekrem, *EU Splinter Group emerges on Kosovo*, in: euobserver, 1.4.2007, at <http://euobserver.com/24/23920/?print-1>; Krasniqi, Ekrem, Goldirova, Renata, in: euobserver, 1.4.2007, *EU ministers to avoid Kosovo question amid ongoing disunity*, at <http://euobserver.com/9/23895/?print-1>.

<sup>101</sup> See *Background: Preparing for the future presence in Kosovo*, March 2007, at [http://consilium.eu.int/uedocs/cmsUpload/070206-bis-ICO-EUSR\\_and\\_ESDP.pdf](http://consilium.eu.int/uedocs/cmsUpload/070206-bis-ICO-EUSR_and_ESDP.pdf); EU set to enact supervised statehood for Kosovo, in: IHT, 12.3.2007

<sup>102</sup> See Bacia, Horst, *Türkei behindert EU-Einsatz*, in: FAZ, 12.6.2007

Russia's motives are difficult to comprehend. In support of its opposition to the Ahtisaari plan, Moscow pointed at the possible precedence for other secessionist conflicts in Eastern Europe, indirectly threatening to increase tensions in the 'Frozen Conflicts' in its vicinity. But Russia should have an interest in smooth progress there, since it supports Pro-Russian minorities in these secessionist territories. Some say that Russia might plan to use Kosovo as a bargaining chip for other negotiations, like the one over the EU partnership agreement, or that an open status of Kosovo simply provides the best means for Russia to retain influence in the region.<sup>103</sup> There is also a rather less rational aspect: Moscow remembers the Kosovo War as a humiliation and will see the independence of Kosovo as a diplomatic failure.

The EU, the US and Russia negotiated intensively in the run-up to the G8 summit in June, circulating a compromise resolution that would postpone a settlement by 120 days. In the case of no agreement, the Ahtisaari plan would be implemented. This was to no avail: Russia did not drop its opposition in Heiligendamm. US President Bush, during a stop-over in Tirana after the summit, announced that Kosovo's independence would come and demanded rapid action. Although Kosovars cheered at the American support, Bush set no clear timetable.<sup>104</sup>

Bush's remarks call up a dangerous scenario: that Kosovo will declare independence and only a few countries will recognise it. This could cause friction between the US and certain European countries, as well as among EU member states themselves. The status question would not only remain open but would also become a source of conflict at a higher level. By the end of the Presidency, no settlement was in sight.<sup>105</sup>

## 8. Conflicts in the Middle East

The Israeli-Palestine conflict was the other major crisis on the German Presidency's agenda. The conflict has been at the centre of growing international attention for some time, while the domestic situation in Israel and Palestine has made rapprochement impossible. The government of Ehud Olmert was under pressure ever since the ill-prepared war against Lebanon and the Hezbollah positions there. The feeble coalition government broke up in the Palestine territories between the two factions of Fatah and Hamas. In June, the separation of the Palestinian territories after the violent take-over of Hamas in the Gaza strip changed the conditions for EU involvement. It allowed for renewed support of the weak government in Ramallah on the one hand, but makes an overall solution more difficult on the other.

The EU plays a crucial, though sometimes underestimated role in the Middle East. It is a member of the Middle East Quartet, together with the US, Russia and the UN. It is Israel's most important trading partner and has for years paid about half of the Palestinian Authority's budget. Germany represented the EU in the Quartet as the holder of the Council Presidency. Berlin had a double function: on the one hand, it had to help bring the Quartet's initiatives towards a peace settlement. On the other hand, it had to negotiate a common position in the EU. Berlin was not a neutral player; it was involved through its long-standing support for the existence and security

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<sup>103</sup> See Reljic, Dušan, Kosovo – Ein Prüfstein für die EU. Im Dreieck EU – USA – Russland wird über die langfristige Stabilität des Westbalkans entschieden (SWP-Aktuell, März 2006), at [http://www.swp-berlin.org/de/common/get\\_document.php?asset\\_id=2884](http://www.swp-berlin.org/de/common/get_document.php?asset_id=2884)

<sup>104</sup> See Martens, Michael, Jubel für den Schutzherrn, FAZ, 10.6.2007

<sup>105</sup> An alternative settlement, in which the Serbian North would become independent or autonomous, might prevent Belgrade from losing face. Such a move could destabilise the region, because other small ethnic groups in the Western Balkans would be invited to seek autonomy themselves. Ahtisaari and the Contact Group have rebuffed such an idea. See ahn., Belgrad erhält Moskauer Schützenhilfe, in: NZZ, 21.4.2007, Küppers, Bernhard, *Moskau verhindert Einigung*, in: SZ, 20.4.2007; Interview of Foreign Minister Frank-Walter Steinmeier with the Serbian daily "Blic", 21.2.2007, at [http://www.eu2007.de/de/News/Speeches\\_Interviews/February/0221AABlic.html](http://www.eu2007.de/de/News/Speeches_Interviews/February/0221AABlic.html)

of Israel and its experience in the naval operations along the Lebanese coast.<sup>106</sup> During the Presidency, German and EU politicians had a tight travelling schedule to the region and Chancellor Angela Merkel also made two trips there.

During Merkel's inaugural visit to the US in January, the situation in Israel and Lebanon was the main issue. The Bush-government, eager to find allies, agreed to Merkel's proposal to convene a meeting of the Middle East Quartet in Washington. The Foreign office had been lobbying for this idea too. America had for long been accused of neglecting the Israeli-Palestine conflict because of its own involvement in Iraq. With Condoleezza Rice as Secretary of State, the willingness to engage in the Middle East had grown. Germany can count it as a success to have worked for a structure that allowed American diplomacy, which has tended towards a US-Israeli bilateralism, to tie into an international framework.<sup>107</sup>

The Middle East Quartet met twice in February at ministerial level and kept in close contact on the working level. The sober objective was to initiate dialogue between Israel and Palestine, and develop ideas for confidence-building measures. The second meeting on 21 February 2007 in Berlin saw a report by Rice about her trip to the region and the short encounter between Olmert and Abbas that she had arranged.<sup>108</sup> The coalition negotiations between Fatah and Hamas in Ramallah, underway since the Mekka agreement in February, had not made much progress. In an attempt to push Hamas towards a more moderate line, the Quartet reiterated the principles that the Palestinian government must refrain from violence, recognise Israel and accept the existing agreements. A day later, President Mahmoud Abbas travelled to Berlin to discuss the situation.

An interesting impetus came from the Arab neighbours. The Arab League, under the leadership of Saudi Arabia, re-launched its 2002 Peace Plan at a summit at the end of March. Saudi Arabia is seeking to take on a greater role in Middle East negotiations because it is concerned about the growing influence of Iran in the region and is seeking stability in Lebanon to avoid a possible Shiite government there. The Arab Peace Plan is based on the deal that if Israel withdrew from its occupied territories to the borders of 1967, the Arab states would recognise it.<sup>109</sup> The German Presidency, during Merkel's second trip to the region in early April, welcomed the renewed proposal. An understanding has grown between the US and Europe that the Arab initiative and the Quartet activities must be brought more in line with each other. Rice ventured the idea of convening a Peace Conference, with Israel, Palestine, the Middle East Quartet and the 'Arab Quartet' consisting of Saudi Arabia, Egypt, Jordan and the UAE. The basis of the negotiations would be the Arab proposal rather than the Quartet's Road Map.

In mid-May, Germany convened a joint meeting of EU Council of Ministers with colleagues from the Arab League in Berlin. Germany was committed to tying the different negotiation frameworks together. In May and June, the Quartet convened in Berlin and in Sharm el Scheich. Its main objectives were to help start direct talks between the Olmert and the Abbas government, which succeeded at the summit in Egypt. The Middle East Quartet also met with the Arab Quartet. The inner-Palestinian conflict had presented Abbas as a logical partner for Israel as well. The EU did not support the separation, but demanded the unity of the Palestine Territories, joining their Arab partners.

<sup>106</sup> See Leithäuser, Johannes, *Schwierige Wiederbelebung*, in: FAZ, 31.1.2007

<sup>107</sup> See *Merkel in Washington: Kanzlerin und Bush wollen Nahost-Quartett wiederbeleben*, in FAZ, 5.1.2007

<sup>108</sup> Among the participants were Solana, Commissioner Benita Ferrero Waldner and UN Secretary General Ban Ki-moon, see Leithäuser, Johannes, *Steinmeier lobt Engagement des ahost Quartetts*, in: FAZ, 22.2.2007.

<sup>109</sup> See Rößler, Hans Christian, *Abdullahs Mahnungen*, in: FAZ, 30.3.2007

The relationship with the Palestinian government has been especially tricky for the EU during the German tenure. The EU Presidency welcomed the formation of a ‘government of National Unity’ in Ramallah between the Fatah under President Abbas, and Hamas represented by Prime Minister Hanija and other ministers.<sup>110</sup> The EU carefully promised to only “resume its assistance to a legitimate Palestinian government adopting a platform reflecting the Quartet principles.”<sup>111</sup> The programme of the coalition did not live up to the three Quartet principles. The EU found itself in an awkward position, willing to work for stability in the Palestinian territories, but unable to negotiate directly with the government as a whole. However, contacts started immediately.<sup>112</sup> The EU Foreign Ministers agreed in Bremen on a formula that Union officials could negotiate with the Palestinians, as long as talks with Hamas were avoided. The EU refused to pay direct assistance to the government and transferred aid through a ‘Temporary International Mechanism’ to hospitals or other agencies.<sup>113</sup> After the Hamas takeover in Gaza, and the shake-up to secure the Fatah rule in Ramallah, the Quartet and the Arab League supported the new government in the West Bank under President Mahmoud Abbas. Israel freed tax revenues for Palestine that it had kept after the Hamas had joined the government. The EU resumed its regular payments to the West Bank and prolonged the TIMs mechanism for Gaza. It also promised to revive the police mission in the Palestinian territories and the border controls at the Raffah border post.<sup>114</sup>

A challenging task not yet accomplished is to prevent Syria from interfering in a way that would increase tension further. Since the Lebanon war Germany has argued that there is a need to include at least Syria in a dialogue on the conflicts in Israel and Lebanon. Foreign Minister Steinmeier has been more forthcoming with this approach than Merkel. He travelled to Damascus in December 2006 – at that time not as a representative of the EU Presidency, but as German Minister – to convince Syria to abstain from supporting the Hezbollah in Lebanon. He sent a clear message from the EU that Syria should be part of the solution, trying to break the country out of the alliance with Iran. In March, Javier Solana travelled with an EU mandate to bring Damascus closer to the peace process. The EU is not united on this effort, but some room is there to test the Syrian position.

The situation at the end of the Presidency presents a mixed picture. On the positive side, influential actors from the Middle East Quartet and the Arab region had joined in the peace process. The EU Presidency played a strong part in creating this new scenario, especially in convening the Quartet, and bringing the different initiatives in line with each other. Direct contacts between Israel and the Palestine government in Ramallah exist. On the negative side, it is clear that the unnatural separation between the West Bank and Gaza must be eliminated, but it remains unclear how the international community could influence Hamas. While the German Presidency managed to involve the US and the Arab neighbours into the peace process, an overall settlement is unlikely as long as the internal Palestinian conflict prevails.

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<sup>110</sup> Bremer, Jörg, *Neuer Anlauf in Ramallah*, in: FAZ, 19.3.2007

<sup>111</sup> Declaration by the Presidency of the EU on the Formation of a Palestinian Government of National Unity, 17.03.2007, at: [http://www.eu2007.de/en/News/CFSP\\_Statements/March/0317Palaestina.html](http://www.eu2007.de/en/News/CFSP_Statements/March/0317Palaestina.html)

<sup>112</sup> Mark Otte, EU Special Representative in the Middle East, spoke with the Palestinian Treasurer Salam Fajad and Foreign Minister Ziad Abu Amr, both moderates. Abu Amr is not a member of Hamas, but on a Hamas position in government. A Palestinian delegation came to Berlin only days after the agreement, but without Hamas members. The Palestinian Foreign Minister visited Vienna. See *Kontakte nach Ramallah*, in: FAZ 22.3.2007

<sup>113</sup> See Bacia, Horst, *Keine EU-Direktzahlungen*, in: FAZ, 12.4.2007

<sup>114</sup> Middle East Peace Process, Council Conclusions, in: Council of the EU General Affairs and External Relations, Press statement External Relations, President Frank Walter Steinmeier, Luxemburg, 18.6.2007, (10657/07 Presse 138), pp. 19-20



## Conclusions

The overall assessment of the Presidency's achievements is positive. It was always clear that media and the wider public would measure Germany's success by the progress made on treaty reform. In this sense, it was crucial that a precise mandate for the IGC be agreed. The progress in other areas of integration was in many ways dependent on the agreement about Treaty reform.

Contrary to many fears, this mandate also goes beyond a mere 'lowest common denominator' and preserves most of the innovations from the Constitutional Treaty. It is clear that many actors contributed to this success, not only the German Presidency. Some even claim that another member state in the presidency's seat would have found it easier to reach a compromise with the Polish government. Such arguments are difficult to counter, since all EU member states bring in individual limitations when taking over the lead in the Union. The Presidency's role in brokering a deal was very prominent and constructive throughout the negotiations. Germany acted as coordinator among the members, of which a strong majority were convinced that a settlement had to be reached. It should not be forgotten that the existing text of the constitution, negotiated in the EU Convention, was an important reference point for talks. Regarding its complexity, Germany's task was ambitious: the German government had to accommodate very different positions, set a timetable and produce a precise mandate that would resolve major disagreements *before* the actual Intergovernmental Conference. Normally, political disputes are settled in the eleventh hour of an IGC, but this time it had to be done before. In contrast to the success of saving most of the Constitutional Treaty, the demand for transparency and simplicity of the new treaty as outlined by the Mandate of Laeken in 2002, has clearly not been met. Stripped of all symbolism, the new EU will also be the old one in another sense: it will remain more a union of states than a union of citizens. With everything that can be said against the complicated and non-transparent agreement, however, the alternative would have been another major EU crisis, and further loss of public confidence.

Progress is not however limited to the institutional question, but is also visible in many other policy areas: in creating a parallel strategy for energy security and climate protection, with unilateral commitments on binding targets, Germany has achieved one of its central goals for the first part of its Presidency. Concerning the Single Market, a number of decisions have been taken that have clearly benefited from German leadership (roaming charges, Single European Payment Area) that demonstrate an 'added value' to European citizens. Justice and home affairs has seen a well-organised work programme, driving integration forward through a number of pragmatic steps. In foreign policy, there has not been much room for vision. Germany's priorities and commitment have also helped forge a renewed partnership with the US, but many conflicts in EU-Russia relations remain unresolved. Competition with Russia would be to the mutual detriment of both partners and hamper EU policy in the region. The German Presidency made very clear, however, that agreement with Russia could not come at the price of solidarity between member states. In the conflict management of Kosovo and the Middle East, substantial settlements are still a long way off. In Kosovo, the EU is preparing for an ambitious operation. Germany has helped to involve the Middle East Quartet in the peace process, putting the conflict higher on the international agenda.

Germany prepared its tenure well, both in quality and quantity. The lines of communication to the Commission and the other member states even outside the Council structures seemed to have worked well. This also holds also true for the network of 'focal points' that facilitated negotiations on treaty reform. In comparison to many other presidencies, the German one was particularly elaborate, with a considerable number of extra staff in operation.

From a certain perspective the German Presidency was able to operate under fortuitous circumstances: since no final negotiations on other issues (budget, enlargement, and highly contested legal measures like the services directive) were on the agenda, activities could concentrate on setting the stage for the highly complex and sensitive topic of treaty reform. In many areas the German Presidency excelled in the setting of objectives, work plans and timetables, and the design of frameworks for further negotiation – for instance in creating the link between energy and climate policy. For the design of future policy programmes, conceptual thinking and persuasion is needed.

As this paper is an early attempt to report the achievements of the German EU Council Presidency, it is difficult to assess how the impetus given during its six months tenure will affect the overall progress of EU integration. Thanks to the German EU Presidency, however, the two-year long ‘reflection phase’ in the EU is now over. As for future developments, it will be crucial to see how Germany performs in its post-Presidency role. Whether Germany will try to influence the coming Presidencies, possibly through reference to the Trio programme, is an open question. While administrative assistance may be welcome, intrusion certainly will not.

Another question is whether the political mandate for treaty reform will hold throughout the IGC. The perspectives for success seem to be positive: building upon detailed mandate, the Legal Service of the EU Council will draft an amending treaty, serving as a reference framework for the IGC. There will be considerable pressure on the negotiators to succeed and therefore reason to hope that any new demands that put the mandate into question are fended off by other delegations.

The successful integration of key parts of the Treaty of Prüm into the EU framework might be an interesting precedent for integration that builds upon outside agreement among member states. It should also be clear that the successful, but highly secretive negotiations on the IGC mandate cannot be seen as a role model for how the EU should function in the future. The closed negotiation procedure that Germany set up has been a useful and maybe even indispensable instrument to come to an agreement, but it has also been widely criticised for its secrecy and lack of transparency by disappointed citizens, journalists and many parliamentarians. Following the tacit belief that a successful EU is the best signal to rally support from the citizens for the Union, the German government gave public communication little priority. The closed ‘sherpa’ network was designed to build mutual trust, but public participation became “collateral damage” that the Presidency willingly accepted.

The secretive German approach might have been unavoidable to end the EU’s institutional navel-gazing, but in the run-up to the next European elections, countries like Germany that favour deeper integration must play a leading role in communicating European policy to a wider public. So far, the looming conflicts behind the EU crisis have not been put to a decision – be it the Union’s potential added value in times of rapid globalisation, the EU’s possible role in foreign policy or the perspectives for future enlargement. There is a need for public debate about these issues, which would encourage citizens’ participation. It would clearly be the wrong lesson to draw from the French and Dutch no-votes if politicians were to close the doors again just because they did not like the answers they got when they bothered to ask the citizens their opinion.

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## ANNEX: Germany's EU Policy and the Organisation of its Presidency

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### 1. German motivation for European integration

Germany's traditional motivation for European integration has been the establishment and promotion of good relations with its Western neighbours. Following the Second World War, integration offered (West) Germany the perspective of becoming a respected member of the international community again. As opposed to the stances taken by France or later the UK, European integration was not just a tool to serve the national interest when appropriate, but *integration as such* was Germany's national interest. At the same time German governments tried to maintain a balance between European integration on the one hand and a strong transatlantic link on the other. Unlike in France, a strong and united Europe was not seen as a counterweight, but as an indispensable complement to the US. After all, the US remained the guarantor power for West Germany against the communist threat throughout the Cold War. And unlike Britain, Germany did not see a good relationship with the US as an alternative to deeper European integration. Both aspects were important building blocks for the policy of West Germany's first post-war Chancellor Konrad Adenauer, who successfully integrated the country firmly into the community of Western democracies (so-called "Westbindung").

With the establishment of the common market through the treaties of Rome, economic motivations for European integration became increasingly important: besides political stability, the European Community now also offered an important market for the country's booming export industry. Today most of Germany's exports go to EU countries.

German support for European integration was, however, never exclusively utilitarian: the political class in particular showed strong emotional support for Europe. In post-war West Germany the prospect of a common European community was seen as a means to overcome the nationalist past and few people openly demonstrated pride in the mere fact of being German. Instead they were proud of Germany's economic performance during the 1950s and 60s, the so-called 'economic miracle' ("Wirtschaftswunder") and the strong Deutschmark as the symbol of this success. People also identified with the stable democracy based on the country's Constitution (the 'Grundgesetz'), which even led to the expression "Verfassungspatriotismus" (constitutional patriotism). Germans saw the embedding of their country's unification into the development of a political union in Europe as a logical extension of post-war foreign policy and an appropriate reflection of the FRG's strategic culture. They easily accepted the idea of soothing their neighbours' apprehensions about the new heavyweight in Europe through multilateralism and integration. It is only in recent years that the identification with the nation-state has become stronger and more emotional, leading some observers to talk about a 'normalisation' of Germany in this respect.<sup>115</sup>

### 2. Developments since reunification

In recent years a certain change in German EU and foreign policy can be observed. Indeed both cornerstones – further EU integration and the strong transatlantic link – have been put to the test: as regards the EU, Germany has neglected its traditional role as defender of the smaller member states' interests and started to behave more like other large countries. Under Chancellor Gerhard Schröder (Social Democrat) especially, a shift towards a more assertive formulation of German national interests took place. This change had, however, already begun during the later years of Helmut Kohl's (Christian Democrat) period in office, not least because the costs of

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<sup>115</sup> An event where this became visible was the 2006 World Cup when national flags were present everywhere in the streets. As in other countries, flags were not meant as a political statement, but simply an expression of enthusiastic support for the national team.



reunification and sluggish reform weakened the economic leverage of the country. Subsequently the government could no longer allow itself to solve problems by making additional financial commitments towards its European partners, as it had often done in the past.

### 3. Public opinion

As in most other member states, war among European nations has fortunately become unthinkable for most Germans. Today people are much more concerned with social and economic issues. Unemployment clearly remains the single most important issue that worries Germans, but most do not think that the EU plays a helpful role in this context. The Euro is still not nearly as popular as the Deutschmark was and many Germans see their country as the ‘paymaster’ of the EU, while taking for granted the benefits of the Common Market for the German export industry. There is also a general unease about further enlargement, especially when it comes to Turkey. Eurobarometer surveys show a strange contradiction here, which may stem from the emotional bias that more Germans than the EU average believe that the EU membership of their country is ‘a good thing’ (58% as opposed to an average of 53%), while fewer than average believe that their country has benefited from EU membership (49% as opposed to 54%).<sup>116</sup> Traditionally, West Germans have a slightly more positive attitude towards the EU than East Germans and the gap between the very pro European political elite and the (at best) averagely supportive general population has been particularly wide. In the context of the French and Dutch referenda, there has been strong criticism that the German people have never had a say on any major EU-related decision (e.g. the introduction of the Euro, enlargement or the Constitutional Treaty).

### 4. Positions of different political players on the EU

#### 4.1 Political Parties

In Germany it is more the parties, and less the parliament itself, that push the political debate on Europe. The Bundestag is supposed to play an influential role in EU policy through Article 23 of the Basic Law, but has only limited capacities to do so. The EU Committee in the German Bundestag has the task of comprehensively surveying all legislative acts with European implications, but cannot cope with the flood of incoming paper. Only recently the Bundestag administration formed a new department on EU affairs and the parliament opened a liaison office in Brussels. Also, a new agreement with the government will improve parliament’s access to information held by the executive.<sup>117</sup>

Among German political parties there is a large pro-European consensus. The two parties that currently form the government, the centre-left Social Democrats (SPD) and the centre-right Christian Democrats (CDU) are just as pro-European as the Green Party (Bündnis 90/Die Grünen) and the Liberal Party (FDP), both currently in opposition. The only party represented in the Bundestag that takes a sceptical stance is the socialist Left Party (Linkspartei.PDS).

<sup>116</sup> *Eurobarometer 66 – First Results*,

December 2006, p.7-10, at: [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_highlights\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_highlights_en.pdf)

The most recent *Eurobarometer 67 – First Results* from June 2007 shows again the same picture: 65% of Germans think that EU membership is “a good thing” (EU-average: 57%), but only 57% think that their country has benefited (EU-average: 59%),

see: [http://ec.europa.eu/public\\_opinion/archives/eb/eb67/eb\\_67\\_first\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb67/eb_67_first_en.pdf)

<sup>117</sup> See *Bundestag bekommt mehr Einfluss auf die EU*, *Süddeutsche Zeitung (SZ)*, 22.9.2005

Extreme right parties like NPD or Republikaner do not have seats in the Bundestag, but also hold strong anti-European positions.

*Christian Democrats (CDU/CSU):* The CDU (Christian Democratic Union) has traditionally been a driving force for European integration. This reputation is especially owed to two Chancellors coming from its ranks: Konrad Adenauer and Helmut Kohl. Adenauer was German Chancellor between 1949 and 1963 and during his time in office he successfully pursued the aim of integrating West Germany into the community of Western democracies. Germany became a founding member of the European Community for Coal and Steel in 1951 and of the European Economic Community (EEC) in 1957. Together with his French counterpart Charles de Gaulle, Adenauer promoted Franco-German reconciliation, leading to the Elysée Treaty in 1963. Helmut Kohl was Chancellor from 1982 to 1998 and saw himself as an heir to Adenauer's legacy. His most significant political achievement was German reunification, for which he gained the support of the French President François Mitterrand, not least because Kohl was also a strong advocate of European integration and close Franco-German cooperation. From the outset, Kohl very much supported the Single Market and European Monetary Union.

Angela Merkel sees herself following on in the tradition of Helmut Kohl. However, in recent years the pro-integration position of the party has become less pronounced. Interestingly, Wolfgang Schäuble, one of the party's most high profile foreign and EU policy experts, currently holds the position of Interior Minister and is thus not directly involved in most European policy decisions. Over the last few years critical comments on European issues from CDU politicians have become more frequent, notably complaints about overregulation and too great a bureaucratic burden imposed by 'Brussels'. Recently, the former German President Roman Herzog published an article in which the CDU politician and former President of the German Constitutional Court claimed that German democracy was undermined by the European Union.<sup>118</sup>

The Bavarian sister party of the CDU, the CSU (Christian Social Union)<sup>119</sup>, has traditionally been more reserved towards European integration, and has even included some eurosceptic voices. In the Bundestag 20 out of the 23 'no' votes to the Constitutional Treaty came from members of the CDU/CSU group (compared to a total of 569 'yes' votes and 2 abstentions). Peter Gauweiler, a CSU member of the Bundestag has subsequently requested the Federal Constitutional Court to challenge the ratification of the Constitutional Treaty. The case is still pending.

*Social Democrats (SPD):* The SPD (Social Democratic Party of Germany) is also a widely pro-European party. Although initially critical of Adenauer's policy of the 'Westbindung', the Social Democrats have clearly supported European integration. While Adenauer concentrated on reconciliation with France, the Social Democrat Chancellor Willy Brandt (1969-1974) turned to Germany's Eastern neighbours in the 1970s and initiated what became known as Germany's 'Ostpolitik'. In this framework, treaties with Poland, the Soviet Union and Czechoslovakia were negotiated. Brandt's successor Helmut Schmidt (Chancellor from 1974 to 1980) worked closely with French President Giscard d'Estaing. Together they developed early plans for a common European currency.

The main dividing line between the SPD and CDU on European issues is Turkish EU membership. While the majority of Christian Democrats are opposed to Turkey joining the Union, most SPD politicians are in favour, probably also because German voters with a Turkish

<sup>118</sup> See Herzog, Roman, *Europa entmachtet uns und unsere Vertreter*, *Die Welt*, 17.2.2007, at [http://www.welt.de/dossiers/eu-macht/article720463/Europa\\_entmachtet\\_uns\\_und\\_unsere\\_Vertreter.html](http://www.welt.de/dossiers/eu-macht/article720463/Europa_entmachtet_uns_und_unsere_Vertreter.html)

<sup>119</sup> The CSU can only be elected by Bavarian voters, the CDU runs in all the other "Länder". In the Bundestag both parties form a common group ("Fraktion").

background tend to vote left. The SPD also puts more stress on the idea of a ‘social Europe’ with common social standards and less tax competition among member states. If progress on these issues fails to materialise, it is fairly likely that the party will shift towards a more eurosceptic stance over time. An example is the critical position of SPD politicians to the initial Commission draft of the Services Directive. The new Left Party (see below) in particular will probably compete with the SPD for a ‘social profile’ in the future and might push the Social Democrats towards more outspoken criticism of the European status quo on social issues.

*Liberal Democrats (FDP):* The FDP (Free Democratic Party) is traditionally very much in favour of European integration. It is a free market party, which strongly supports Commission efforts to further liberalise markets. Some criticism has been expressed about ‘bureaucracy’ and ‘overregulation’ resulting from EU legislation.

*The Green Party (Bündnis 90/Die Grünen):* Former Foreign Minister Joschka Fischer (who left the political stage after the elections in 2005) has contributed significantly to the pro-European profile of the German Green Party. Largely due to the fact that issues like environmental protection, consumer rights and equal opportunities have gained in importance at the European level, the Green Party has become very positive towards European integration. A minority criticises the lack of a social dimension in the EU and potential conflicts could arise if the EU were to become more active in the field of defence policy. Equally problematic would be any attempts to promote nuclear energy in the framework of a future European energy policy.

*The Left Party (Die Linke):* The newly founded party ‘Die Linke’<sup>120</sup> is the product of a merger between the ‘Linkspartei.PDS’, a successor to the former ruling party of East Germany, and the WASG, a party founded in 2005 mostly by former members of the Social Democrats who disagreed with the labour market reforms of Chancellor Gerhard Schröder’s red-green government. It is the only really eurosceptic party in the German Bundestag. One of the two chairmen (Parteivorsitzender) of the merged party is former SPD politician and Finance Minister Oskar Lafontaine. The criticism of Die Linke towards the EU focuses mainly on the lack of a social dimension.

## 4.2 The “Länder”

Germany is a federal state with 16 regions (‘Länder’) and its governments are represented in the second chamber (‘Bundesrat’). In return for their approval of the Maastricht Treaty in 1992, a new Article 23 was introduced into the German Constitution that grants the Länder considerable influence on the country’s position in the Council of Ministers. The governments of the Länder must be involved (or at least extensively consulted) in all decisions that regard their own competences. As a consequence, Germany often has an increased need for internal coordination during Council negotiations and it takes a relatively long time to find a common national position. This causes a comparative disadvantage for Germany when it comes to coalition building at the European level. Since the 1990s all of the Länder have offices in Brussels, some of them very representative ones. Their relations with Germany’s permanent representation have not always been easy. Since foreign policy is the exclusive competence of the federal level, it pays careful attention that the Länder do not undermine federal efforts through independent policy at the European level.<sup>121</sup>

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<sup>120</sup> On 16<sup>th</sup> of June 2007

<sup>121</sup> For example, the federal government still insists that the Länder offices should not be called ‘representations’ to avoid creating the impression that the regions have competences in the field of foreign policy.

### 4.3 *The Federal Constitutional Court (Bundesverfassungsgericht)*

The German Constitutional Court enjoys much respect in national public opinion and is a very powerful institution with considerable influence over German EU policy-making. Because of this influence critics sometimes reproach it for functioning almost like an (unelected) ‘third chamber’ in German law-making. Unsurprisingly, Germany is the only member state where the ratification of the Constitutional Treaty may ultimately be decided by the Constitutional Court. Concerning EU issues in general, the Court is especially concerned about the ultimate control over competences (so-called ‘Kompetenz-Kompetenz’), which, according to its understanding, must always remain at the national level. It is thus very critical of any kind of general ‘passarelle clauses’ in the European treaties that may be used to shift more powers to the European level. Equally, the Court insists that national courts are ultimately responsible for guaranteeing fundamental rights standards. Only “as long as” a general level of rights protection appears to be secured at the EU level, the Constitutional Court has agreed to refrain from exercising its ultimate right of control.<sup>122</sup> To some extent, the Constitutional Court represents a counterweight to the pro-European political mainstream in Germany.

## 5. Organisation of the German Presidency

Running an EU Council Presidency is a tremendous and multifaceted task, with up to 4000 formal and informal meetings that need to be organised. The political importance was even greater in view of the high expectations towards the German impact on European integration. It is therefore worth looking at the way in which Germany organised its Presidency.

### 5.1 *The Grand Coalition*

The political leader responsible for the government’s EU policy is Chancellor Angela Merkel, a Christian Democrat, but the Council Presidency has been managed in close cooperation with the Foreign Ministry, so Foreign Minister Frank Walter Steinmeier, SPD, played a crucial role. In the run-up to the Presidency, critical observers were seeking points of dispute in the Grand Coalition that might derail German foreign policy. Indeed, grand coalitions usually have a fragile and transitional character, making paralysing timidity or open conflict possible. In Berlin, the political personnel in the Federal ministries are posted in accordance with the Minister’s political line, so political conflicts might even impede inter-ministerial coordination.

The Grand Coalition in Berlin, however, has sufficient common ground in foreign policy. Some points of friction between CDU/CSU and SPD were visible, but hardly disturbed cooperation. In spite of critical positions among the Social Democrats about the Bush government, enhancing partnership between Europe and the US is a shared objective. The new government signalled early on that it will take greater account of the concerns of smaller member states again. A general return to the ‘cheque book diplomacy’ of earlier years is unlikely, even if the financial situation of Germany improves. The government’s motto that a strong competitive Europe with an open single market that will allow Europe to keep its high standards of social security has reconciled the conflicting approaches of economic liberalism and social democracy. Attitudes and reactions to the behaviour of Russia have differed. The language in the coalition agreement on the strategic partnership with Russia allowed for wide interpretation, however. Turkish accession is an issue between the SPD and the CDU, but the coalition has stated that accession negotiations will be conducted following the EU commitment – a perfect way to postpone

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<sup>122</sup> See for more detail the so-called ‘Solange II’ ruling of the Constitutional Court (BVerfGE 73) 339, at: <http://www.servat.unibe.ch/dfr/bv073339.html>

conflicts until after the four years of government tenure. In short, the Grand Coalition will not break-up over foreign policy.

One asset in the coordination is the well-balanced team of Brussels insiders that Merkel brought together as heads of the EU departments for the Council Presidency. Uwe Corsepius is the trusted head of Merkel's EU Department. He has served in this department already under SPD Chancellor Gerhard Schröder. The former head of the planning cell in Solana's General Secretary, Christoph Heusgen, is now heading the Foreign Policy Department in the Chancellery. He was not in charge of the EU Presidency, but has a strong voice in areas related to the external relations of the EU. His year-long counterpart as former head of the EU department in the Chancellery under Schröder, Reinhard Silberberg, is now State Secretary for European Affairs in the Foreign Office. The head of the EU Division in the Foreign Office is also a Brussels insider, Peter Tempel, the former Chief of Staff of Commissioner Günter Verheugen. The German permanent representative in Brussels, Wilhelm Schönfelder, had his tenure extended so that the Presidency could benefit from his experience. The State Secretary in the Ministry of Economics is Joachim Würmeling, a former Member of the European Parliament and deputy member of the Convention that drafted the Constitutional Treaty. The Parliamentary State Secretary in the Ministry of the Interior is Peter Altmaier, also deputy member of the Convention and a Commission official on leave.

## 5.2 Coordination on four levels

The coordination of EU policy in the German government is a persistent problem, due to the independence of the ministries, shifting competences and the peculiarities of the federal system, with strong influence of the Bundesländer. Four levels of external and internal coordination formed the organisational backbone of the Presidency.

*Inside government:* EU policy is a policy field encompassing numerous ministries and agencies. Added to that, German federal policy has a strong principle of departmental independence ('Ressortprinzip,' Art 65.2 of the German Basic Law). The ministries have the right to govern their own area of operations within the framework the Chancellor has set up through policy guidelines. The Head of Government is not supposed to intervene in the ministries' affairs, thus good coordination is crucial for a coherent policy. Not surprisingly, political haggling is the rule. Each Chancellor in office has taken on more and more policy fields in the last few decades and Merkel is no exception. The responsibility for overseeing EU policy lies within the Chancellery. With the extension of European integration into other ministries' portfolios, the Foreign Office has been losing ground on EU affairs.

Internal coordination in German EU policy is traditionally difficult<sup>123</sup>. Under the current government the Chancellery is responsible for overall policy formulation and supervision, as well as for the management of the EU Presidency. The Foreign Office has the micromanagement and most areas of CFSP in its hands while the Ministry of Economy is in charge of all economic issues including the Lisbon Agenda. The Treasury plays a more marginal role than under the red-green Government, so that a 'quadriga' of coordination centres could be avoided. Each ministry has special representatives and task forces for the Presidency to facilitate coordination.

Coordination in EU affairs is traditionally organised bottom-up, to keep conflicts away from the political level. High level meetings take place twice a month: State Secretaries meet on a

<sup>123</sup> See Wulf-Mathies, Monika and Hüttemann, Bernd, *Der deutsche Patient im Lazarett Europa: Zur Europa-Koordination und -Kommunikation in Deutschland. Europäische Bewegung Deutschland* (EU-in-Brief Nr. 05/02), 22.09.2005, at [www.europaeische-bewegung.de/fileadmin/files\\_ebd/eu-in-brief/EBD\\_EU-in-BRIEF\\_05-2.pdf](http://www.europaeische-bewegung.de/fileadmin/files_ebd/eu-in-brief/EBD_EU-in-BRIEF_05-2.pdf)

monthly basis, as do – with two weeks delay - the heads of department. The relevant heads of unit from all Ministries meet every Monday (formerly the so-called ‘Tuesday Round’) to prepare the COREPER meetings, alternating between the Foreign Office and the Ministry of Economics. In a *Ressortkreis*, representatives of all ministries involved in a dossier convene in the ministry with lead management, to detect conflicts at an early stage. An example of the bottom-up approach was the way in which the government negotiated the Presidency agenda. The ministries first negotiated topics internally and issued requests that the Chancellery then put together in a draft agenda. In general, however, the degree of coordination is low, due to the large number of actors involved. The Chancellor has difficulties in centralising authority and creating an orientation for a comprehensive strategy.<sup>124</sup>

Much of the daily work of the EU Presidency had to be done in Brussels. To this end the German Permanent Representation to the EU received 85 additional posts during the Presidency. The Permanent Representation was – for example – in charge of negotiating economic dossiers like the Single European Payments Area (SEPA) and the Economic Partnership Agreement between the USA and the EU.

*Between Berlin and the Commission:* The network of connections between the European Commission and the German Government was one of the central collaborative structures in the run-up to and during the Council Presidency. On the one hand the Commission was an indispensable partner for the German government in the preparation of EU policies, both as the initiator of legislation and as arbiter of the common EU interest. On the other hand, the Commission is also an important independent player, as it has the task of controlling the implementation of EU law and must confront member states when they do not live up to their obligations, but also has strong self-interests in the renegotiation of the Constitutional Treaty.

The Presidency and the Commission cooperated well on setting the schedule and formulating documents, while being in discord over some specific measures. Quite naturally, the German EU Presidency sought close coordination in areas where the Commission was in charge to push policy forward, such as the Lisbon Agenda, the energy and climate strategy or the partnership agreement with Russia. With regard to climate change and energy issues, however, Germany – with its monopolised domestic energy market and strong automobile industry – has been the target of sharp criticism from the Commission.

The agenda of the German Presidency, as well as the joint agenda with the two subsequent Presidencies, was coordinated with the Commission, just as Germany commented extensively on the Commission’s Strategy Plan for 2008. In a joint meeting between Commission members and the German Cabinet on 9 January 2007 the Commission President José Manuel Barroso issued strong support for the German work plan, especially with regard to finalising treaty reform by 2009 and the joint energy policy of the EU.<sup>125</sup> Barroso, a Portuguese Christian Democrat, owes his post to some degree to Angela Merkel’s support in creating a majority among the conservative governments in Europe. Their excellent working relationship is thus partly due to this political favour. Barroso also found the support of the Schröder Government in 2004 when he made the Social Democrat Günter Verheugen Vice-President of the Commission.<sup>126</sup>

The communication between the German government and the EU Commission is decentralised. Ministerial officials deal with their counterparts in the Commission directly, thus avoiding a

<sup>124</sup>See Große Hüttemann, Martin, Die Koordination der deutschen Europapolitik, in: *Aus Politik und Zeitgeschichte/Beilage zu Das Parlament* (ApuZ)10/2007, at [www.bpb.de/publikationen/10F6L4,0,Die\\_Koordination\\_der\\_deutschen\\_Europapolitik.html](http://www.bpb.de/publikationen/10F6L4,0,Die_Koordination_der_deutschen_Europapolitik.html)

<sup>125</sup> See *Barroso stärkt Merkel für Ratspräsidentschaft*, Financial Times Deutschland, 10.1.2007

<sup>126</sup> Barroso met with the German government Cabinet in October 2006 to discuss the Presidency work plan.

detour via the Chancellery. However, they seek coordination with their colleagues from other ministries. The Heads of EU Departments travel to Brussels on a weekly basis.

*Between Germany, Portugal and Slovenia:* The first so-called ‘Trio Presidency’ has been in operation since 1 January 2007, a new structure formed to better coordinate the subsequent EU Presidencies. The idea of the new instrument is to secure continuity and to give political initiatives more time to work.<sup>127</sup> The first Trio Presidency is made up of Germany, Portugal and Slovenia, one large and two small countries. The Trio negotiated a joint Presidency Programme covering 18 months and the Justice and Home Affairs Council even managed to set up an individual 18 month agenda. Germany is the first country to hold a Presidency in a Trio, having the strongest political weight of the three. There is reason to expect that its influence will stretch into 2008, especially since France, Germany’s traditional ally in Europe, will hold the Presidency in the second half of that year. The cooperation between the three countries will also include cultural projects, training programmes and personnel.

A comparison of the agenda of the German Presidency<sup>128</sup> with that of the Trio<sup>129</sup> reveals considerable overlap. The geographic spread of the Trio Presidency, as well as the inclusion of a new member state, has helped to cover a larger spectrum of interests among the EU members. This is illustrated by the example of illegal migration: it has been understood that the Germans would focus more closely on measures against the migrant routes over Eastern Europe, while Portugal will look at the Mediterranean region. EU treaty reform is a central issue, but the programme also has a dense work plan to create momentum in the Lisbon agenda or the European area of freedom, security and justice.

*Between the Capitals:* The most important task during the German Presidency was to produce a roadmap and some initial understanding on how to negotiate a replacement for the EU Constitutional Treaty. The Merkel Government chose to create a new network of so-called ‘focal points’, a group of emissaries (‘sherpas’) from the EU capitals. As a first test case, they contributed to the drafting of the Berlin Declaration commemorating the signing of the Treaties of Rome. Between April and June the sherpas then negotiated the draft roadmap on the Constitutional Treaty that formed the basis for the European Summit on 21/22 June.<sup>130</sup>

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<sup>127</sup>It goes back to a Council decision amending its rules of procedure from September 2006.

<sup>128</sup> See Federal Government of Germany, *Europe – succeeding together*, Presidency Programme, 1 January to 30 June 2007, at [http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU\\_presidency\\_Programme\\_final.pdf](http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU_presidency_Programme_final.pdf)

<sup>129</sup> See *18-month Programme of the German, Portuguese and Slovenian Presidencies*, Council of the EU, Brussels, 21.12.2006 (17079/06 POLGEN 125)

at [www.eu2007.de/includes/Download\\_Dokumente/Trio-Programm/trioenglish.pdf](http://www.eu2007.de/includes/Download_Dokumente/Trio-Programm/trioenglish.pdf)

<sup>130</sup> For a list of the Sherpas, see Seifert, Jan, List of Sherpas for EU Constitution negotiations, in: Jan’s EUBlog at <http://blog.jan-seifert.de/?p=36>.