

Germany and European Integration

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1. Introduction

In the preamble of its constitution the Federal Republic of Germany declares the German people to be "inspired by the determination to promote world peace as an equal partner in a united Europe". Both because of this constitutional obligations and the political experience of a country defeated and occupied in 1949 and re-emerging to a reliable leading partner in Europe by today, European integration and unification became Germany's *raison d'état* and as well its gateway to the world. When the constitution was adopted in May 1949 neither "a united Europe" existed nor was Germany prepared to act as "a partner", let alone accepted as "equal" in the community of Western states – in contrary, the country was morally and politically discredited. It had organized and executed the killing of about six Mio European Jews; it was responsible for waging a war in which more than 40 Mio people killed. Having suffered from German conquest, occupation, and exploitation during the Second World War, its neighbouring countries disliked Germany fundamentally and demanded the end to the German threat.¹ Deployment of the allied troops and partition into West (FRG) and East Germany (GDR) appeared to provide security to the continent against any revival of a German threat. Thus, in 1949 this article in the German Basic Law (*Grundgesetz*) was hardly more than a courageous vision.

This constellation completely changed. The FRG developed into a powerful European nation-state committed to "European values" with a strong personal weight in European institutions, in NATO, and other European and international bodies. But this road to the new Germany and the consequent overcoming of its nationalistic and militaristic past did not happen spontaneously, but has evolved as a process. Progress was shaped by external as well as internal push and pull factors:

Externally, progress was driven primarily by the Western Allies who were interested in controlling developments in Germany. Furthermore the formation of the Soviet bloc and the emerging Cold War pushed the FRG further towards integration into the West.

Internally and as a major domestic factor, the political system and the economy of the newly established FRG have been salient and have been providing an utmost of continuity in German European policy during the last 60 years. On part of attitudes one finds a willingness to adapt to the Western world, a

¹ The history of German-French relations illustrates such experiences with Germany: France lost the German-French war in 1870/71, experienced the German attack on its soil in World War I (1914 – 1918), and German attack and occupation in World War II after 1940.

permissive national consensus on the advantage of European integration, and a growing awareness of German responsibility for two World Wars and the genocide on the German and European Jewish population. On part of the political system the constitution and its intention and promotion of European integration had been decisive. The Federal Constitutional Court (*Bundesverfassungsgericht*) has always taken Europe-friendly positions. German federalism provided a democratic say for the regional level and supported the introduction of the European level to its idea of multi-level governance. On part of the economy interdependence and export orientation has provided a broad economic-political interests in removing national barriers.

Keeping these factors in mind helps to understand the seven core and key strategies of German policies towards Europe, which became formally and informally binding guidelines for all governments of whatever party and party coalition since 1949 (table 1):

Table 1: Key Strategic Imperatives in German Politics towards Europe

1. Double Orientation to the West ('Westbindung' through European integration and NATO)
2. Rearmament as a strategy to promote and widen sovereignty
3. Special alliance with France on equal footing
4. Detente with the East
5. Emphasis on the political character of the EU
6. Shaping the EU's political system
7. Merging diverging interests in a cooperative way

Over the years, Europeanization of the German political system became a momentum on its own and it was reinforced after the divided country reunified. In sum, today's Germany ranks high among EU members regarding obedience to European law and support of European integration; just as well, it does not threaten its neighbours by hegemonic attempts but is considered as a good, cooperative, and benevolent neighbour. Thus, European integration has been a success story of international politics in both views, from the German side as well from the one of its neighbours.

2. European Integration as an Offer and Opportunity for the FRG

Usually "European integration" is seen from a supranational standpoint. From here it is defined as a process that aims at peacefully overcoming political, legal, economic, social, and cultural barriers among European states and societies. Such objectives are pursued by commonly agreed norms, procedures, institutions, and the general promise for peace and welfare. Every nation-state and society can easily identify with such aims. Barriers are mentioned; however emphasis is on an envisioned future and not on

the past. No party is put to shame; nothing is said about particularistic interests and motives, although they have been ruling the European nation-state system since the very beginning. The early credit to initiate this process in the late 1940's must be given to Germany's neighbouring countries, as they were ready to enter into a formal and de-facto political process taking the new FRG-Germany along, despite huge reservations among their national constituencies.

German inclusion into the West-European political structure has been achieved primarily through two organizational structures. The first has been the Council of Europe. Founded in May 1949 by ten states on British initiative, it was the first international organization, which invited Germany to participate as its 14th member in the making of post-war Europe in July 1950. Political support for membership was to a large extent formed by the European Movement, which had a strong backing among those intellectuals and politicians, who had been opposing Nazism and who had been cooperating across borders – even during war times.

Against the background of the disastrous, authoritarian and violent rule in Europe's recent past, the Council of Europe became responsible for forming norms and values, for setting democratic standards, and creating a European-wide judicial space. The aim of the organization is "to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress". Although the aims were vaguely formulated in the statutes and appeared to be of rather conservative nature, the actual effects were revolutionary. The adoption of the European Convention on Human Rights (1950) and of the European Social Charter (1961) played a strong role in transforming post-Nazi and post-war German judicial culture. The underlying values have been successfully diffused into the educational system, the mass media, and into public opinion and political discourse. Fundamental and human rights became self-evident imperatives not only within the domestic sphere, but also in German foreign and European policy. Because of the dominant of the EU-integration process, today despite its 47 member states the Council of Europe is overshadowed by the European Union. But it has to be remembered that this European organisation has influenced German political culture much stronger than it is publically recognised today. Germany became one of the main financial contributors alongside with France, the United Kingdom, Italy, and Russia. According to the general impression the Council of Europe is mainly busy with assisting East European countries to adapt to democratic rule. But every Euro spent for the purpose of strengthening human rights and democratic rule in transition countries has its side effect. It also contributes to strengthening the donor's commitment to European standards and the aim to creating an expanding value based European zone of peace.

Today, most Germans, understand the term European integration as a synonym for the evolution of the European Union (EU) and its predecessors, namely the European Coal and Steel Community (ECSC) and the European Economic Community (EEC). German governments used to feel as "owners" if not architects of this process and sought to gain from this role. In their view evolution of supranationality was primarily

achieved by the skills of the first German Chancellor Konrad Adenauer and due to German industrial resources and willingness to finance European integration overproportionally. But in contrast to this perception the trigger again came from the outside. Of course, Adenauer himself had some ideas how to realize the German idea of equal partnership. He believed in an economic customs union; but these ideas did not meet the priority political needs of the neighbouring countries. After World War II, most Western countries were afraid of a Germany that would recover as a European power. Trust in an autonomous democratic and peaceful development of the country was rare. But keeping Germany on knees – such as after World War I through the Treaty of Versailles -, would pose the risk to press Germany into Communism and a revivalisation of German-Russian cooperation of the past instead of making it a barrier and ally against the Soviet Union. How could one transform a not trustworthy former enemy into a friend? Europeanization became the Western solution to the so-called German problem. Western countries used the term European integration simply as a friendlier alternative to the unpleasant term "control"; but it was de facto a cooperative strategy of control. On part of the German side, the strongest motive was just the opposite: Getting rid of control by foreign allies, regaining sovereignty, becoming a trustworthy and embedded partner, which would become equal to the neighbours and particularly to France.

Thus, European integration has always had different meanings to each country. History gave proof that collaboration with the Germans must not end into its dominance. It also gave proof that control from outside must not necessarily exclude sovereignty. Their combination is possible, if certain provisions are taken. Control over Germany was pursued extraterritorially and directed from European institutions, not from any other nation-state and control over Germany was combined with the offer of regaining a say in European affairs. Sovereignty became tied to norms and limited by the interests of partner countries.

It was the French Jean Monnet, who became the author of the path-breaking philosophy of integration as the solution to the German problem. "We must not try to solve the German problem in its present context", he wrote in May 1950. "We must change the context by transforming the basic factors". He was convinced that a recovery of Germany conducive to lasting peace would only be possible within a united Europe. Therefore, he suggested to the then French foreign minister Robert Schuman to control Germany by placing French and German actions under the same controlling conditions, i.e. demanding from both countries to obey to the same commitments. Furthermore, he suggested breaking the vicious circle of rivalries not only by treating French, Germans, and their partners as equal but by distracting attention from grievance to a new vision called "Europe". The French foreign minister was unconventional and courageous enough to listen to his advisor; he proposed to create the European Community on Steel and Coal (ECSC). In 1950 – only five years after Nazi occupation over France ended – he offered to place French coal and steel industries – at that time the pillars of economic power – together with those of Germany under the control of a single supranational authority, in order to make a

future war between the two states impossible. The proposal, however, was not restricted to a bilateral deal. It envisioned an enlarged membership which would form a multilateral context.

In April 1951, the ECSC was established by six participating countries. Four of them had been invaded by German forces twice within less than 40 years. All of them wanted to safeguard themselves from potentially future German expansionism. All of them had to overcome deep reservations against conceding an active and visible role for Germany in the new Europe. In addition, three of them, Luxembourg, Belgium, and the Netherlands (the BENELUX countries), felt uncomfortable when considering the risk of a French-German hegemony; instead they preferred to participate under the same logic, i.e. to control the actions of the two other by placing their own actions equally under the same control and the same conditions. Belgium and the Netherlands both remained sceptical and were constantly seeking to reassure a backing from their transatlantic NATO allies, the U.S., Canada, and the United Kingdom, as a guarantee against hegemonic attempts of Germany, France, or of both. Although being smaller countries, all three made their voices heard and some of their ideas taken up: for example, the European Economic Community (EEC) with a common market at its core was established on initiative of the Netherlands. They were economically interested in the project not only as a means for increase of welfare but believed in economic interdependence as a security strategy.

3. The German response

Noteworthy, the success story of EU integration did not originate in German thinking, but derived from a politically new and wise concept creatively applied by German Western neighbours putting their interests in the balance. However, the basic philosophy of European integration became deeply incorporated into the general frame of reference for German foreign policy and its attempts to re-establish a say in Europe and the world, starting with a focus on West Europe, then including East Europe before it was reaching the United Nations (table 2). A set of key strategies have been applied and made German foreign policy transparent and predictable to the partner countries.

Table 2: Milestones of Germany's European Policy

1949	Adoption of the German Basic Law (Grundgesetz) including a preamble with emphasis on a united Europe
1950	Germany becomes the 14 th member in the Council of Europe
1951	Germany becomes one of the 6 members of the European Community on Steel and Coal
1952-1955	Negotiations on rearmament and sovereignty: Failure of the treaty on a European Defence Community (EDC) and instead Germany becomes member of NATO
1963	Elysée Treaty on Franco-German Cooperation
1969-1973	Ostpolitik of Chancellor Willy Brandt as part of détente politics: Treaty of Moscow (1970), Treaty of Warsaw (1970), Four Power Agreement on Berlin (1971), Transit Agreement (1972), and Basic Treaty between FRG and GDR (1972) and full membership for the two German states in the United Nations
1978/79	Development of the European Monetary System by French President Giscard d'Estaing and the German Chancellor Helmut Schmidt
1985	Draft Treaty for European Union presented by the French President Francois Mitterand and the German Chancellor Helmut Kohl to the European Council
1990	German reunification i.e. the former GDR joins the FRG, which constitutes an indirect Eastern enlargement for European Community. Joint letter of the French President Francois Mitterand and the German Chancellor Helmut Kohl serving as a catalyst for the 1991 Intergovernmental Conference on Political Union
1992-93	Treaty of Maastricht, establishment of the European Monetary Union (EMU), which means the replacement of German Mark by EURO and amendment of Article 23 of the German constitution on request by the Federal Constitutional Court (Bundesverfassungsgericht)
1999	The German EU-Presidency launches the project of a Charter of Fundamental Rights for the European Union
2000	German Initiative on finalisation of European Integration launching the Treaty establishing a Constitution for Europe
2007	The German Presidency launches the renewal of the Constitutional Treaty under a new name (Lisbon Treaty)
2009	The Federal Constitutional Court (Bundesverfassungsgericht) decides on the ratification of the Treaty of Lisbon and reviews the state of European Integration as according to the German Basic Law (Grundgesetz)

Double West-Orientation (Westbindung)

Traditionally, German politicians have been anxious to reassure their European partners of Germany's fullest and uncompromising commitment to European integration. Moreover, in conformity with at least the aims of the BENELUX states, and in contrast to French policies for more independence from the U.S., Germany profited with its commitment to the entire Western community, seeking closest relationship not only with Western Europe but with the U.S. as well, which became the fundament of German foreign policy.

The decision for such doubled Westernisation was pushed forward by Chancellor Konrad Adenauer and his Christian Democratic government against strong opposition among his own conservative faction and party as well as from the oppositional Socialdemocrats – they feared that such a policy from Adenauer would endanger German reunification. They argued against polarisation between East and West, and proposed a kind of neutrality status as the alternative. However, after Adenauer's decision had become a matter of fact, no later government dared to put it into question or to attempt revision. In contrary, double 'Westbindung' became the overriding principle of German foreign policy of every later government regardless of its political colours.

At certain points the policy of double 'Westbindung' was challenging, because Germany had to balance between opposing poles represented by France and by the U.S. Generally speaking, Germany profited rather than suffered from tensions among the two. One example is the fate of the European Defence Community (EDC). It was proposed in 1950 and failed in 1954, because the French parliament was unwilling to ratify the already signed treaty. After such a European option had failed, Germany turned to the transatlantic NATO, led by the U.S., for membership. This experience shows how Germany could play the card of double 'Westbindung' in order to succeed with its primary policy goal of its first years, i.e. retrieval of sovereignty.

Rearmament for Sovereignty

Already in September 1950, the U.S. called for rearmament of the FRG in order to bolster defense in West-Europe against the Soviet bloc and the Western allies came to the conclusion that one could hardly rearm West Germany without negotiating on its future status. Ending discrimination as the loser of World War II and as an occupied country appeared to be the prize to be paid for a build-up of German troops against Communism. Rearmament was heavily disputed within the German public and among the political parties. Many people warned it would deepen the division between the Communist and the democratic part of Germany and pose a threat to peace. Adenauer's government, however, understood the U.S. call for rearmament as the great opportunity to push forward his priority, i.e. German sovereignty. French policy-makers felt pressured by the U.S. and had difficulties to accept any German military revival. In October 1950 the French Prime-Minister René Pleven announced that France would

only agree if rearmament of Germany would take place within the context of a European Defence Community (EDC). All land forces and defence budgets should be placed under supranational control. The respective treaty was signed by the six ECSC countries in May 1952. It was supplemented by the initiative to commission a group of parliamentarians with drafting a European Political Community Treaty (EPC) that would be able to determine the tasks of the envisioned European forces. But neither the EDC nor the EPC came into life. Indeed, the French government had decided to change its security policy and was aiming at positioning France as a new nuclear power between the USA and the Soviet Union. Consequently, the French government had become reluctant to submit the treaty for parliamentary ratification, before the French Parliament, in 1954, rejected to ratify the treaty. The French turn, however, is only one part of the story. The U.S. interest in German troops strongly encouraged Adenauer to insist on his set terms. He demanded from his EDC negotiating delegation to reject any discriminating action and to pursue – above all – the goal to end occupation status as a precondition for German participation in the EDC. Time was used as a means of pressure. In May 1952, one day before the EDC Treaty was signed, the Western allies signed the "German General Treaty", which opened the path for ending FRG's status as an occupied territory and giving it more or less all rights of a sovereign state. Furthermore, it was promised that West-Germany could receive sovereignty even in case the EDC would fail. This option made aware that the country anyway would achieve sovereignty in exchange for rearmament. Thus, it undermined German efforts to compromise in order to get the EDC-Treaty coming into force. Actually, little after EDC ratification failed in France, the British Foreign Minister took initiative and proposed Germany's accession to NATO, and after a few months West-Germany became a recognized sovereign and armed member.

Special Alliance with France on an Equal Footing

Despite the failure of the European Defence Community, Germany has perceived its relations with France as forming the core of the Community structures and the key to it. Politicians used to refer to the Franco-German Treaty of Elysée as one of the historic cornerstones of Germany's European policies. It was concluded on an initiative of the French President Charles de Gaulle in 1963. It binds the two countries to "consult before any decision on all important questions of foreign policy and, in the first place, on questions of common interest, with a view to reaching as far as possible an analogous position" (Article 2, paragraph 1). Consequently it demands from France and Germany to do their utmost to reach mutually compatible positions, ahead of any EU meetings. It established a regular consultation mechanism and a number of agreements for enhanced coordination and cooperation in the fields of foreign policy, economic and military affairs, as well as culture and youth exchange. Some commentators refer to these exclusive bilateral relations as "alliance within the alliance", or as "entente within the Union". From a German perspective, the treaty symbolises that Germany managed to establish a structure for coordination and

collaboration on equal footing; from a French perspective, the treaty means not only a new historic partnership but the best-possible control of its old German problem.

Meanwhile, this partnership is highly appreciated among Europeans and praised as Europe's integration engine. But after the treaty was signed it seemed to function as just the opposite and turned into a dividing force in Europe. Timing, French motives, and persistent distrust of Germans were the main reasons. The treaty was signed just after de Gaulle vetoed EEC membership of the United Kingdom. As a response, the treaty became immediately under attack by the United Kingdom, the U.S., by other EEC and NATO countries, and, as well, among German political parties. The government was criticised for acting on behalf of France in order to reduce the Anglo-Saxon impact on Europe and split the West. Accusations put ratification of the treaty by the German Parliament into question. Finally, the then Minister for Economic Affairs who later succeeded Adenauer as Chancellor, Ludwig Erhard, resolved the dilemma. On his initiative a preamble was added to the German (not to the French) version of the treaty. It reassured close political ties with the U.S., the United Kingdom, and with NATO in the areas of economy and defence. Ironically, in the end the treaty reinforced the country's double 'Westbindung', instead of loosening its transatlantic strand what the French president had intended. German-French relations stayed tied to the transatlantic world – just the same with German 'Ostpolitik' of decades later.

Détente with the East

German 'Ostpolitik' developed since the mid 1960's, and it was neither independent from French nor from American interests and policies. Both states had become aware of their interest in de-escalation of the Cold War and in relaxing international relations through diplomatic and confidence-building measures. A new German approach to the East became a key factor in realizing the attempt to end the Cold War confrontation by implementing the Western policy of détente. High barriers against cooperation with the Communist world had been build up during the era Adenauer. One of the most effective constraints was conceptualised by the Chancellor's Permanent Secretary Walter Hallstein, who later (1958-1967) served as president of the EEC Commission. Following the view that the FRG was the only German state and in order to block international recognition of the GDR as a second German state, he proclaimed the so-called Hallstein-doctrine already in September 1955. It demanded that the German government should not establish or uphold diplomatic relations with states which recognized the GDR according to international law with the exception of the USSR and if one state would establish official diplomatic relations with the GDR the FRG should retaliate in ending diplomatic, development aid, and other relations with this state. This doctrine was not only directly offending the GDR but it was also binding friendly-minded states, which were interested in cooperation with both parts of Germany. The more Western countries discovered their interests in détente, the more they became aware that the "Hallstein-doctrine" was working against such a policy reorientation.

Getting rid of the Hallstein-doctrine took Germany and its allies almost ten years, mostly due to domestic reasons. Divided by the "Iron Curtain" (Eiserner Vorhang), Germany and, in particular, Berlin had become symbols of East-West antagonism. Confrontation between the two blocs had been implanted for years into minds and hearts of the people by election campaign after election campaign. Many people – conservatives as well as Socialdemocrats – warned that a policy shift towards détente would undermine relations with the West, would weaken its strength, would offer an entrance door for Communism, and would bury the hope for reunification. Any move which could be understood as recognition of the GDR was feared to break away means for safeguarding West German claim to be regarded as the one and only legitimate German state. Consequently the mere idea of approaching cooperation with the East faced strong opposition and was received positively only by a very narrow majority of voters in 1969 and 1992. The decision to launch a new Ostpolitik came into life only after the Socialdemocratic candidate for the chancellorship, Willy Brandt, courageously distanced from his previous claim for a return of territories in the East lost during the WW II. He managed to attract new and younger groups of voters by linking his specific programme for detent with twinned promises: The promise of "peace" and the promise of "more democracy" attracted the elder as well as the younger generation, and many female voters.

Willy Brandt had been Mayor of West Berlin during 1959-1966. The need for abolishing the Hallstein-doctrine and for moving from Cold War to détente had already been promoted by his advisor Egon Bahr in 1963. He introduced the principle of "Change through Rapprochement" to the political discourse, encouraging a policy of engagement with the East instead of isolation. This principle was meant as the alternative to East-West confrontation and not as an alternative to German orientation towards the West. Since Willy Brandt became Foreign Minister in the Christian-Democratic-Socialdemocratic coalition government in 1966, he had gradually distanced himself from the Hallstein-doctrine. And when he became the first Socialdemocratic Chancellor in the history of Germany in 1969, he reaffirmed that the FRG would remain firmly rooted in the Atlantic alliance, but at the same time however, would intensify efforts to improve relations with Eastern Europe and the GDR. After the Moscow Treaty was signed in 1970 he gained ground for negotiating a Treaty with the GDR (Grundlagenvertrag, 1972) and formally suspended the Hallstein-doctrine. Thus, the FRG recognized the GDR as being de-facto but not de-jure a second German state. Whereas the 'Ostpolitik' continued to be controversial in Germany it was widely appreciated abroad, which was underlined by awarding the Nobel Prize for Peace to Willy Brandt in 1971. Ostpolitik not only reduced tensions among the two German states and among the FRG and its Eastern neighbours in particular Poland and Czechoslovakia; it also increased German political weight in Europe and the world. It opened the path for the accession of both German states to the United Nations in 1973, a step that was again related to regaining sovereignty. In his 1973 address to the United Nations General Assembly Chancellor Brandt emphasised the European Communities' peaceful intentions and their determination to contribute actively to the policy of

détente in Europe. Furthermore, he praised the policy of non-aggression as key for peace in the world. This was the moment when Germany had returned to global politics as a country, which – for the first time – has linked its interests to European as well as to global peace as anchored in the German constitution nearly 25 years ago.

Emphasizing the Political Character of European Integration

It took another twenty years of confidence-building, compromising, and pragmatic work under the following Socialdemocratic Chancellor Helmut Schmidt and his Christian-Democratic successor Helmut Kohl before the Four Allies of World War II allowed Germany to reunify. Both German Chancellors made use of the French-German engine, putting France into a leading role for further institutionalisation of the European project, namely establishing the European Council, elections to the European Parliament, preparations for monetary integration, and promotion of institutionalization of European Political Cooperation (EPC) in Foreign Affairs. In the aftermath of the German non-violent “revolution” the GDR joined the FRG and was dissolved. With five new states and roughly 20 mio inhabitants more, Germany had to manage the socio-economic, political, and mental transition. Nearly overnight EU member-states were confronted with the enlarged Germany potentially becoming the community’s biggest player: both vis-à-vis their historic experiences with Germany and the loss of the old intra-European power balance they were not enthusiastic about this prospect. Mistrust had not fully disappeared during the previous years of European integration and the question was raised, whether united Germany would continue with its policy of European integration. Following its traditional lines of European politics the German response was definitely positive. Despite much hesitation on part of the European allies reunification of Germany became a matter of fact. Soviet approval was gained with the promise of future cooperation and a significant financial assistance. NATO extension to East Germany assured the approval of the U.S. and the UK and the promise to significantly reduce the troop numbers of united Germany created further acceptance. When the French government pressed for further economic integration in order to control the new potential giant the German government agreed to the idea to create a European Monetary Union (EMU), which meant the end to the strong Deutsche Mark (DM), and to establish the European Central Bank (ECB), which meant the end to the German Central Bank’s (Bundesbank) dominance in Europe. Both decisions were taken against strong reservations of economic interest groups and against a widely sceptical public at home and would never had been accepted in a referendum. In addition, the German government went even further than demanded by France. It came out with additional ideas for Europeanization, seeking to reinforce its profile as the twin engine of European integration, together with France and equal to France. Demonstrating its continued commitment to European integration Chancellor Kohl emphasised the need for progress also in political respect. He succeeded in convincing the hesitating French President Jacques Chirac to launch a French-German initiative for creating the European Union as a political community

that should develop a Common Foreign and Security Policy (CFSP). Noteworthy, neither “control” nor “peace” was presented as main reasons. The political rhetoric stressed that the European Union should strengthen its power and legitimacy to the outside, increase efficiency of European institutions, and provide political coherence within. The outcome of this ambitious attempt was ambivalent. On the one side, Germany was now representing hopes of all those Europeans, who called for deepening the integration project towards a federation, for decision making by majority votes, and for strengthening the EU’s supranational structures in policy areas like security and defence. On the other hand German ambitions challenged the majority of anti-federalist EU members, who perceived German European policy as a challenge towards their own approach to Europe. The ongoing debate on reforms of EU-institutions became deeply imprinted by these opposing expectations towards the future German role and its institutional weight.

Table 3: German Weight in EU Institutions (2009)

Council:	Share of German votes (like France, Italy, UK)	29 of 345
European Parliament	Share of German seats (France, Italy, UK: 72)	99 of 736
European Commission	Share of Commissioners (like all members)	1 of 27
	Civil service: officials and temporary agents (UK 5,3 %, Italy 10,2 %, France 10,2 %)	2.092 of 24.952 8,4 %
European Economic and Social Committee	Share of German seats (like France, Italy, UK)	24 of 344
Committee of the Regions	Share of German seats (like France, Italy, UK)	24 of 344

Shaping the EU’s Political System

The fresh impulse to European integration was reassured domestically by an amendment to the German constitution on request of the Federal Constitutional Court (Bundesverfassungsgericht). On occasion of the ratification of the Maastricht Treaty establishing the European Union in 1993 it stated: “*The important factor is that the democratic foundations upon which the Union is based are extended concurrent with integration, and that a living democracy is maintained in the Member States while integration proceeds.*” Following this decision support for deepening of European integration was re-enshrined by inserting a new Article 23 into the German constitution. It introduced three innovations:

First, when reassuring the aim of establishing a united Europe, Article 23 defines precisely the EU as the instrument to achieve this aim, without mentioning any other European organization like the Council of Europe.

Second, Article 23 gives guidelines how the EU should work. Literally it should become “committed to democratic, social, and federal principles, to the rule of law, and to the principle of subsidiarity”. Furthermore, it should guarantee

“a level of protection of basic rights essentially comparable to that afforded by this Basic Law”, i.e. the German constitution.

Third, Article 23 states that Germany may by a law transfer sovereign powers to the European level but only with the consent of its state chamber (Bundesrat). In addition, Article 23 demands that the German states shall participate in matters concerning the European Union.

At a first glance, these constitutional regulations appear as a solely internal affair of a democratic and federal state which has become increasingly in need of complex multi-level policy coordination among a series of heterogeneous departments and units in the federal ministries and other domestic actors involved in foreign policy making of the German democracy. At a second glance, however, its wider implications become obvious. Constitutional obligations determine the nature of the government's attempts to shaping the EU institutional system with retroactive effects on partner countries and definitively must cause disputes on the European level as obligations of Article 23 clearly run counter the views of a considerable number of other EU-members. One example is the vision of a state-like United Europe. It contrasts with the French idea of a “Europe of the member-states” as well as with the British view that the EU should work similar to an intergovernmental organization. Another example is the mere idea the German constitution should be setting standard for respect of fundamental rights. It is disputed not only by the United Kingdom, but also by Sweden, although of different reasons. Thirdly, the principle of federalism is hardly acceptable to more centralized countries like France, the UK or Sweden.

In sum, the amendment of the German Constitution by Article 23 was ambivalent in its meaning. It can be read as a further expression that Germany is willing to strengthen the EU's political institutions and mechanisms, but it can also be read as an expression of a German will to export its own political system to the European level. Not every member state has been in favour for such attempts. Such reservations became obvious when the newly elected Red-Green Government coalition enthusiastically launched two projects in order to constitutionalise the European Unions.

The first project was the EU Charter of Fundamental Rights. The idea was put forward by the German EU Presidency in early 1999. Following a decision of the European Summit the text was drafted by the first European Convent chaired by the former German President Roman Herzog, who had served as a judge of the German Federal Constitutional Court before. The draft was adopted by the EU Council Meeting in December 2001. In contrast to original German intentions, it became only a non-binding declaration. Later, it was incorporated into the “Treaty establishing a Constitution for Europe”. After this Treaty had failed, the Charter was slightly modified. It did not become a legal document but was given sui generis value of a ‘solemn proclamation’. It is mentioned in the Lisbon Treaty. In the respective article the Union recognizes the rights, freedoms, and principles set out in the Charter and foresees the same legal value as the EU-Treaties. The United Kingdom and Poland,

however, opted that the Charter cannot be used against British or Polish laws, regulations and administrative provisions, practices or actions.

The Lisbon Treaty derived from the second German constitutional project. A kick-off to this project was given by the German Foreign Minister Joschka Fischer in 2000 when he inspired a debate on the finality of European integration. In 2001 the European Council established a second Convention. This time, it was not chaired by a German but by the former French President Valéry Giscard d'Estaing. The “Treaty establishing a European Constitution” was signed by member-states in June 2004 and was put for ratification. It became the top priority of German policy for Europe. A stage-managed consensus among the parliament, the media, and the German constituency was achieved. Despite a few critical voices, people got somehow blind to political needs in their European partner countries. The mere idea that ratification could fail through a referendum in France appeared false and was out of minds until polls showed that French voters might reject, which they did then. German politicians intervened into the French debate and warned in pathetic words about catastrophic consequences of a rejection. But all attempts were in vain: In May 2005, the referendum in France and in the Netherlands put an end to the constitutional project.

Germany regretted this failure but did not give up. The Treaty remained a top priority even after a new Christian-Democratic-Socialdemocratic Government Coalition took office. In 2007, when Germany held the Presidency of the European Council again, it pressed for a renewal of the project in order to secure the efficiency, coherence, and legitimacy of European decision-making. The new Chancellor Angela Merkel launched the idea to use different terminology without changing the legal substance of the rejected treaty, to call off further parliamentary debates and any further referenda, except from Ireland, where a referendum is not a political instrument but a constitutional obligation. Actually she achieved to re-impose the project with some alterations and used its political weight to get the draft agreed as the “Lisbon Treaty”. Ratification started successfully until the Irish people in May 2008 vetoed. One year later, it was Germany that provides a delay, somehow repeating antecedents. Germany was actually the last country to ratify the Maastricht Treaty in 1993 after the Court imposed restrictions. It never ratified the Treaty Establishing a European Constitution, as the Court wisely postponed a pending appeal in order to escape from the risk of interfering unnecessarily into the ongoing political debate. However, in June 2009, the German Federal Constitutional Court draw a line when it decided upon a number of long standing complaints, which were petitioned against the ratification of the Lisbon Treaty. The Court concluded that the Lisbon Treaty in principle does not contradict the country's Basic Law (Grundgesetz). Its openness towards European Law is reaffirmed. However, it unanimously called a halt to the German ratification process until the German parliament strengthens the role of the national legislative bodies in implementing European laws. Most interesting is the Court's firm message about the state of European integration and the nature of the EU's political system. The judges evaluated the connection between democracy on the national level on one part and the level of independent rule which has been reached on the European level on the

other part, thus placing a structural problem of the European Union at the centre of the forthcoming judicial and political discourse on Europe. The Court explicitly put into question the philosophy of the Treaty campaign which was seeking public support by promising a democratization of the EU-decision making. It simply denied that the European Parliament is a body which can give adequate democratic legitimacy to European law.

Table 4: The German Federal Constitutional Court's Evaluation of the EU's Democratic Deficit

" (...) The extent of the Union's freedom of action has steadily and considerably increased, not least by the Treaty of Lisbon, so that meanwhile in some fields of policy, the European Union has a shape that corresponds to that of a federal state, i.e. is analogous to that of a state. In contrast, the internal decision-making and appointment procedures remain predominantly committed to the pattern of an international organisation, i.e. are analogous to international law; as before, the structure of the European Union essentially follows the principle of the equality of states. As long as, consequently, no uniform European people, as the subject of legitimate account of equality in the context of the foundation of a European federal state, the peoples of the European Union, which are constituted in their Member States, remain the decisive holders of public authority, including Union authority. In Germany, accession to a European federal state would require the creation of a new constitution, which would go along with the declared waiver of the sovereign statehood safeguarded by the Basic Law. There is no such act here. The European Union continues to constitute a union of rule (Herrschaftsverband) founded on international law, a union which is permanently supported by the intention of the sovereign Member States. The primary responsibility for integration is in the hands of the national constitutional bodies which act on behalf of the peoples. With increasing competences and further independence of the institutions of the Union, safeguards that keep up with this development are necessary in order to preserve the fundamental principle of conferral exercised in a restricted and controlled manner by the Member States. With progressing integration, fields of action which are essential for the development of the Member States' democratic opinion-formation must be retained. In particular, it must be guaranteed that the responsibility for integration can be exercised by the state bodies of representation of the peoples. The further development of the competences of the European Parliament can reduce, but not completely fill, the gap between the extent of the decision-making power of the Union's institutions and the citizens' democratic power of action in the Member States. Neither as regards its composition nor its position in the European competence structure is the European Parliament sufficiently prepared to take representative and assignable majority decisions as uniform decisions on political direction. Measured against requirements placed on democracy in states, its elec-

tion does not take due account of equality, and it is not competent to take authoritative decisions on political direction in the context of the supranational balancing of interest between the states.

It therefore cannot support a parliamentary government and organize itself with regard to party politics in the system of government and opposition in such a way that a decision on political direction taken by the European electorate could have a politically decisive effect. Due to this structural democratic deficit, which cannot be resolved in a Staatenverbund, further steps of integration that go beyond the status quo may undermine neither the States' political power of action nor the principle of conferral (...)"

Source: Federal Constitutional Court – Press release no 72/2009 of June 30, 2009

The consequences of the 147 page-long ruling regarding the Lisbon Treaty and moreover European integration in general is left open and will depend to a large degree on the ways how other EU members will respond to it. The Court's recognition of the EU's democratic deficit will most probably be received as a call to action in favor of more democratic procedures. This might inspire the discourse in other member countries and directly assist their national parliaments to insist on similar guarantees ensuring their involvement in EU decision-making and keeping pace with European integration. In the long run, it may as well inspire new attempts to shape the European institutional system in a way that it keeps pace with increasing awareness of democratization as a principle for a future structure of European governance. In sum this is the general imperative resulting from the German Constitution, and posing the challenge to German policies to find a balance with the demands put forward by other members of the EU.

Merging Diverging Interests

The debate on a new EU Treaty providing new regulation on institutions and decision making mechanisms within the EU had been running in parallel with arguments among member-states on enlargement of the EU-15 towards an EU-27. The British government stood for those members interested in slowing down institutional integration by increase in number of diverse members. The French government, however, took a sceptical view, as enlargement was seen as a risk for institutional development of the EU and as a threat towards the French position within the Community. The German government took a mediating position. It combined British ambitions and French reservations with its own ambitions for a Treaty on a constitution of the EU. Thus, it asserted and campaigned that widening and deepening of the Union are compatible goals, and that both should be attained simultaneously, and in a short term.

All German governments favoured enlargement as an opportunity to strengthen German economy. Furthermore, the enlargement project became instrumental for

generating additional reason for significant institutional reform as the latter was declared a precondition for the former. More qualified majority-voting, budgetary reform, and the restructuring of selected policy fields – in particular agricultural policy and regional policy – became topics on the German agenda of enlargement. Germany labelled itself as ‘advocate’ of its Eastern neighbours, and became a major supplier of technical advice and assistance to applicant countries. A German politician, Guenther Verheugen, held the post of the EU Commissioner on Enlargement and was in charge of organizing the pre-accession process. It is however noteworthy, that German enlargement policy was also determined by the desire of the U.S. to pilot under its own command expansion of NATO before admission to the EU. In particular, this is true as regards membership of the Baltic States. After accession of ten East and South European countries in 2004 and Bulgaria and Romania in 2007, arguments on further enlargement of the EU as well as the role of Germany continued. It remained and still remains uncertain how Germany is finally taking position regarding accession of Turkey and a number of East-European countries like Albania, the Ukraine, or Moldova. Predictably, Germany will not disregard U.S. demands for further enlargements and probably will try to take a middleman-position among EU-members. Furthermore, Germany will seek bilateral communication with Russia on enlargement issues in order to prevent that Russia feels offended by EU unilateral decisions on the status of its neighbouring countries as far they also are neighbouring the Russian Federation. Germany will continue to strengthen its bilateral relations with Russia despite criticism from other EU members. In particular the Baltic States had argued that German-Russian bilateralism would be on their expense. They continuously remind Europe of German-Russian cooperation during National Socialism and Stalinism. Their warning demonstrates that the legacy of Germany’s violent and bellicose past continues to work and structure comments on the German role in European integration.

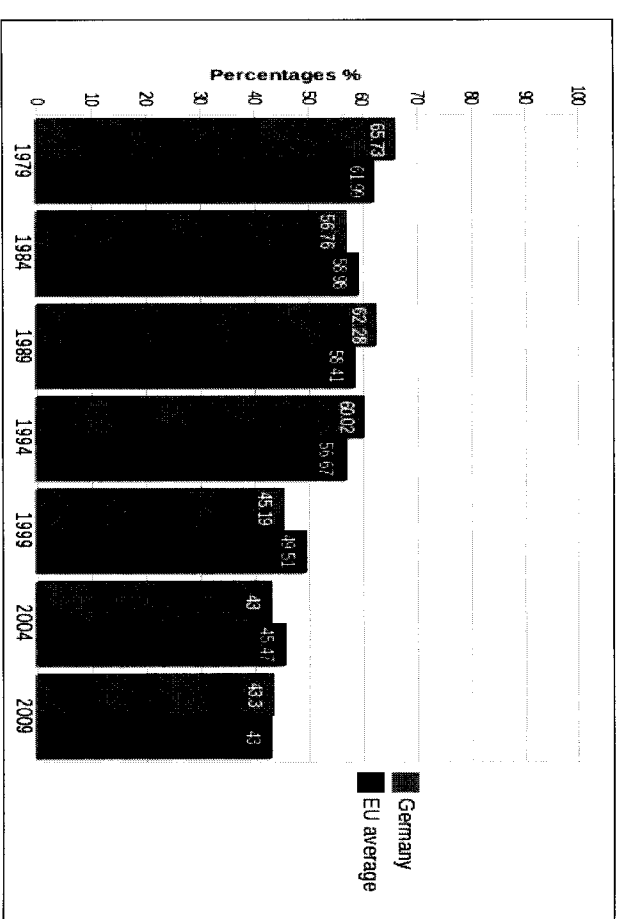
3. Balance-Sheet: Good Europeans or hegemonic Germans?

It is often asserted that Germany assimilated the European integration project more than other members leaving behind such countries like the United Kingdom or Denmark. German ideational goals, its normative interest and its financial contribution to the EU budget as well as to transition of Central and Eastern Europe clearly demonstrate its affinity for European integration. Indeed, it always favoured conformity with European perspectives since Konrad Adenauer determined that European integration is in the country’s self-interest and consequently a central foreign policy goal. Moreover, Europeanization of Germany had gained a momentum on its own. Preparedness to participate in the European Monetary Union even against a strong financial lobby at home demonstrated that German foreign policy appreciates conformity with the interests and need of neighbouring countries and works for fusion of its own *raison d’état* and the *raison de communauté*. Policies that lack empathy with

partner countries find constraints and fail. This lecture might be taken from the failure of the constitutional projects for future policies aiming at institutional reforms on EU level.

On its clean slate, however, is a black spot. If compliance with EU law is taken as an empirical indicator of its willingness to act in conformity with Europe, the German self-understanding is challenged by a few facts. Reports of the European Commission prove that willingness to implement Community law into national law declined remarkably. In 2000 Germany held rank 6 among 15 members, in 2001 rank 11, and in 2003 rank 13 together with Luxembourg. The Commission’s statistic on infringement cases indicates that Germany violated EU law significantly more often than the UK, the Netherlands and Denmark. Even in such policy fields in which Germany took the initiative in forming EU law, e.g. environmental protection, the country, afterwards was found reluctant to implement the outcome nationally. Such figures indicate a growing gap between political visions on European integration and the country’s capacity to transfer its visions into action. The low and decreasing turn-out in elections to the European Parliament signals likewise, that the attention of the German constituency to European Integration is only average. Germany is not piloting European integration; the country has remained only part of a crew which members are talking different languages and follow their own agenda, but use the supranational structure as a facilitator.

Table 5: Elections to the EU Parliament: German Turnout Compared to EU Average



Source: <http://www.europarl.europa.eu/parliament/archive/elections2009>

Predictions that Germany would develop hegemony over East European countries or over the community at large after reunification and after completion of sovereignty did not materialize as well. Despite its strong economy and a comparatively large population it does not possess the ability to dominate. Firstly, most EU-members are anxiously demonstrating to their own citizens and to other countries their independence and willingness to defend their national interests. Secondly, a political culture of moral constraints, post-nationalism and insight in its overriding interest in the community substitute post-war pressure on Germany from outside. One may argue that such political culture is fading out. A range of post-war inhibitions were raised to question after Germany brought troops to the Balkans and a number of other places in Asia and Africa. However, German military and political actions were demanded from its partners, and they have been staying under control as they are carried out within NATO or UN operations and within the EU's Common and Foreign Security Policy. To some extent, these international and supranational structures hide German power. But they also tame and civilize it by subjecting it to the agreement of partner countries. Germany, today, is an influential player, but only if it complies with a number of conditions: It must cooperate, form alliances with other member states and mediate among them, bargain and compromise. The future of the EU's political system will not follow a path predefined by Germany. The EU's supranational structures have enabled the country to return to international politics, they continue to condition German power and keep it within limits. Germany's tie to Europe is considered virtually irrevocable as long as the European partners keep interested in European integration for their own reasons. Thus, prospects of any formal or informal German classical hegemony in Europe stay remote.

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French-German Cooperation: Axis and Engine in European Politics

Richard Woyke

1. Introduction

For nearly six decades, France and Germany have cooperated and created a strong French-German alliance that has also been called the "engine" of European integration. Before 1945 France and Germany have been worst enemies and fought numerous wars against each other. Germany with its central geographic position of Europe was overrun by the troops of French leaders like Napoleon, when he tried to establish a European empire under French rule. But it has to be remembered the last major wars between France and Germany were initiated by Germany: In the period 1870 - 1945 Germany and France fought three bitter wars (1870 - 1871, World War I 1914 - 1918, World War II 1939 - 1940) mostly on French territory and divided France between the German-occupied France and the Vichy-France in 1940. In 1944 France was liberated by troops of the Anglo-Saxon alliance and French forces under de Gaulle. In 1945 Germany finally capitulated and divided into four occupation zones including the Four-Sector occupation of Berlin.

The fundamental question of 1945 was what to do with defeated Germany and how to overcome the historical German threat to its neighbours. It was foreseeable that the occupation of Germany had to be ended in the future. And as East-West confrontation escalated into the Cold War during the years 1946 - 1949, German territory, German economic power, and German manpower became important, which led to the strategy to integrate Germany into the Western bloc. Although directly after the defeat of Germany France preferred a policy of punishment against Germany, it had to accept the international developments – at least by American demand and pressure - and as a consequence that a new German state could be established and become a member in the Western bloc. On the other side, Germany pursued its security interests particular because of the Cold War threats through integration into Western Europe. French-German reconciliation became possible against the background of the self-destruction of the European system of states. The two great wars of the 20th century had destroyed the old balance of power and demanded a reformulation of German-French relations. Guided by this experience, two outstanding statesmen, Robert Schuman and Jean Monnet, proposed not to follow the old model of the Treaty of Versailles but promoted a different principle: An integration of interests built on French-German reconciliation and cooperation.

Prof. Dr. Reimund Seidelmann (ed.)

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