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Future of the European Union and the European Constitutional Treaty: The Future of the European Union and its Importance for Transatlantic Relations

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THE GERMAN PRESIDENCY AND THE EUROPEAN CONSTITUTIONAL TREATY: THE FUTURE OF THE EUROPEAN UNION AND ITS IMPORTANCE FOR TRANSATLANTIC RELATIONS[♣]

Colette Mazzucelli[♦]

Introduction

The rejection of the European Constitutional Treaty (ECT) by France on 29 May 2005 and the Netherlands on 1 June 2005 left the future of European Union (EU) in question. After the failed referendums, the Heads of State and Government in the European Council called for a reflection period to give member states time to decide on next steps.

Under the leadership of Chancellor Angela Merkel (CDU), the German Presidency, in the Chair from January through June 2007, has established a timetable to reach agreement among the 27 member states as to how to proceed with the European Constitutional Treaty. The German Presidency's efforts are sincere and its effort has been substantial.

Three structural constraints are likely to set the parameters for the German Presidency's ability to promote consensus among the Union's 27 member states by the end of its term. The initial constraint is the nature of the Presidency system, which rotates every six months, and the great expectations placed on the Federal Republic, a large member state with traditionally strong pro-European and transatlantic proclivities.[i]

The second constraint is the timing of domestic elections in key member states starting with France in spring 2007. The lack of engagement in questions of European integration, particularly its future, by political parties is the 'absent intermediary' in most of the member states. The key is that a continuous, direct, and open channel of communication between governments and citizens is missing in the European debate. The gap between elites and citizens, which is particularly evident in the countries that rejected the European Constitutional Treaty, is a significant question in terms of representative democracy.

This elite-citizen gap has implications for the final constraint: the possibility that any future constitutional treaty reform is likely to be subject to referenda in more than one member state.

Three Structural Constraints and their Impact on the Requirements of a Constructive German Role in Constitutional Reform

The Presidency System:
reaching limits in the equation 'institutions + fixed deadlines = policy'

In the early decades of European construction, the practice of the Presidency system, in which

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[i] For an excellent overview of the 2007 German Presidency, read Ulrike Guérot, **Germany and Europe: New Deal or Déjà Vu?** *Notre Europe*, Studies and Research No 55, Paris, 2006.

one member state chairs all of the meetings among the members and the institutions over a six-month period, worked to assure that each Community member had the chance to profile its membership on a regular basis. In a European Community (EC) of 6, 9, or 10, each country held the Presidency within a reasonable amount of time every few years. Less time in the Chair provided a guarantee that each member state, large and small, was offered the opportunity to provide leadership during specific intervals. The balance between larger and smaller member states was not yet altered by the enlargements that began in the mid-1980s with Portugal and Spain.

This expansion continued in the mid-1990s with Austria, Finland and Sweden, culminating in the 'big bang' enlargement of 2004, which added ten member states to the European Union established by the Treaty on European Union ('Maastricht') in 1993. By this time, the longstanding pressures in the Presidency system had reached a critical mass: the number of member states as well as the proportion of smalls, nineteen, substantially increased. The administrations of the smaller member states are overburdened by the heavy workload of a Presidency, which must lead an increasingly complex system covering a wider range of policy areas.

The likelihood of a Presidency being overwhelmed by an external event of unforeseen importance increased as the number of crises in the world multiplied after the end of the Cold War and its characteristic bipolar stability. In these circumstances, a Presidency must have the leadership resources at its disposal, administratively, and in terms of the political will and weight in the overall system, to provide continuity in the policy direction of the Union over a substantial period of time. In key policy areas like the single European market and Economic and Monetary Union, the success of the traditional integration equation that institutional dynamics and fixed deadlines lead to constructive policy outcomes is clear. On the world stage, six-month intervals hardly provide the necessary timeframe for the Union's Presidency to 'speak for Europe' coherently and consistently while providing leadership on such an important issue as constitutional treaty reform to chart the Union's future course. The European Constitutional Treaty recognizes the limits of the existing Presidency system and introduces an eighteen-month rotating Presidency comprising pre-established groups of three member states, which the Federal Republic of Germany continues to support.

Given the previous structural conditions, inevitably there are great expectations placed on a large member state Presidency. In the case of the Federal Republic of Germany, these expectations are intensified because of its traditional pro-European role as well as its longstanding policy since the Adenauer era of balancing European integration with a solid anchor in the transatlantic community. For each country taking its turn in the Chair that must grapple with the Treaty's fate, particularly the 2007 German Presidency, the question is one of commitment by leaders and citizens.

Germany, the country with the most neighbors on the Continent, has an interest in a Europe in which the member states are able to succeed together. How the EU of 27 move ahead has much to do with the way in which the Presidency as an institution exercises consistent leadership to communicate and demonstrate European interdependence to citizens. In this context, we must question why the leadership to accomplish constitutional treaty reform over time should be entrusted to a Presidency system that rotates inefficiently and not to the European Council, an institution whose members are the leaders in each member state democratically elected to represent their citizens. We must also ask these same leaders why reform of the Presidency system should not be achieved independently of the issue of the European Constitutional Treaty's ratification.

Timing is Key - Domestic Elections and the 'Absent Intermediary'

The German Presidency has set down an ambitious timetable for consideration of the

Constitutional Treaty. On 25 March 2007, the 50th anniversary of the signing of the Treaty of Rome establishing the original European Economic Community (EEC), the German Presidency had prepared a written declaration to explain the future objectives of European integration and their relevance to the citizens of the Union in the 21st century.[ii] At stake is the legitimacy of the European Union, its widespread acceptance by citizens in member states whose interests and political cultures are as diverse as they are established over time.

While diversity in the Union's member states is a given and a key characteristic of the Union's identity, political culture, the views and attitudes of citizens about politics and society in their respective countries, is more changeable. This is evident in the results of domestic elections, in which citizens do not necessarily remain loyal to traditional parties or to the platforms that assured their electoral success in previous results at the polls. Parties of the left have lost a majority of their base in the past several decades, and parties of the right no longer appeal to the younger generations in search of alternative 'voices' on issues of concern like employment in the age of globalization, immigration, or the environment. Sociological analyses confirm that the result is increasing support for extremist parties on the far left and the far right in a number of the Union's member states.[iii] The search for support among voters leaning traditionally to the far right, to the National Front, by the leading contenders in the French 2007 presidential elections speaks increasingly to this phenomenon.[iv] Significantly, the relevance of European integration in these debates among as well as within political parties is notable for its absence in the discourse.

In hindsight the elitist 'top down' explanation to integration must take into consideration the important role Christian Democratic parties and their leaders played to revive and sustain the integration process in the 1950s and 1960s after the failure of the European Defense Community on the floor of the French National Assembly in August 1954. In those countries with a tradition of strong parliamentary democracy like the Federal Republic of Germany, the role of these parties is essential because their political function and responsibility is to serve as the intermediary between government and citizens on issues of popular concern in daily living. For example, an impetus to integration in the midst of the single European currency debate, the Schäuble-Lamers paper, originated within the Christian Democratic (CDU) party in the German parliament during 1994.

In this context, the domestic elections of particular concern to the German Presidency, the French presidential elections in April and May 2007, are illustrative. The timing of these elections is set to coincide with the German Presidency's push to revive the momentum of the constitutional treaty reform process in the period between the special March 8 European Council commemorating the 50th anniversary of the Treaty of Rome and the June 18-19 European Council before the end of the German Presidency. In the French Fifth Republic, a presidential system, political parties are relatively weak. Issues of European integration are not traditionally emphasized in these elections, and the French media is not particularly adept in its coverage of European issues to educate French citizens as different candidates present their views.

The timing of these elections is arguably late in the six-month schedule of the German Presidency in its consideration of constitutional treaty reform. The absence of the intermediary function normally reserved to political parties leads in the French system to failure in bridging the elite-citizen gap in issues of European integration. The leadership efforts of the German Presidency are dependent in large part on its ability to achieve consensus among the 27 member states regarding the fate of the Constitutional Treaty. To date, there are eighteen member states that have ratified the treaty, either through parliamentary ratification (Austria, Belgium, Bulgaria, Cyprus, Estonia, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Romania,

[ii] Michael Siebert, **Studying the European Union**, *Palgrave Studies in European Union Politics Symposium*, London, March 9, 2007.

[iii] Lisa Jandi. **Vom 'roten Gürtel' zum 'braunen Gürtel'? (**Berlin: Verlag Walter Frey, 2006.)

[iv] Elaine Sciolino, 'Tensions Over French Identity Shape Voter Drives,' *The New York Times Online*, March 30, 2007.

Slovakia, and Slovenia) or popular referendum (Luxembourg and Spain) and seven that have yet to ratify (Czech Republic, Denmark, Ireland, Poland, Portugal, Sweden, and the United Kingdom). The consensus rule makes the timing of elections in other member states a critical factor in the debate, which the German Presidency is responsible to chair in a sensitive and skillful way.

Referenda and Representative Democracy in the European Constitutional Treaty Ratifications

The German Presidency has as its goal in constitutional treaty reform to present a set of objectives to be achieved within a specific timeframe to advance the process over the next few years. Although the Federal Republic has no provisions in its own Federal Constitution, the Basic Law, to allow national referendums, the German Presidency does not aim to circulate proposals to convince other member states in the European Union to abandon calls for referenda on constitutional treaty reform in their own countries.[v]

Once again the case of France warrants reflection because of its specific history in terms of the use of referenda to decide issues of European integration and its traditional role as the privileged partner of Germany in the integration process. The use of referenda in the French Fifth Republic dates back to General Charles de Gaulle's belief that 'truly effective European organizations required popular act [s] of faith.'[vi] Unlike his successors, the General frequently used the referendum as an instrument to legitimize his policy choices. This legacy is particularly important to the extent that the National Assembly is less and less representative of the French people. In today's Union, a significant percentage of the legislation that affects the lives of French citizens is decided in Brussels. The referendum is an established instrument in the French political culture that today imposes a discipline of responsibility on the French leadership and media alike to present the European Union within the hexagon in a way that rejects the temptations of recent years: first, that of the French elites to scapegoat Brussels institutions to citizens when European decisions are domestically unfavorable to key interest groups; and second, that of the French, print, radio, and television media to present successive European constitutional treaty reforms in a pro-yes biased manner, i.e., a no vote for constitutional treaty reform signifies the end of the integration process.

In the early years of the Fifth Republic, each referendum was called with the promise made by the General to resign in the event the French rejected his policy decision. In 1969, a failed referendum over regional reform led to his departure as French president. In matters of constitutional treaty revisions, Presidents Francois Mitterrand and Jacques Chirac each consulted the French people. In the September 20, 1992 referendum, the 'yes' vote was a marginal victory for the proponents of European integration in France. The 'no' vote on May 29, 2005 was conspicuous as an indicator of the French people's response to the question "What European Union?' in the 21st century. It also signaled a break with Gaullist tradition in that President Chirac, unlike the General, did not step down after the French people rejected the Treaty, which, paradoxically, corresponded in large measure to Chirac's objectives in constitutional reform. The most obvious difference between the 1992 and 2005 referenda outcomes is the change in younger citizens' support for treaty reform: in 1992 there was a slim margin in favor of the treaty expressed by 18-24 year olds, 50.7% yes / 49.3% no; in 2005 within the same age group the difference weighed more decisively in the no camp: 44% yes / 56 % no. In a general sense, the French result confirms the broader analysis that today's younger generation across the member

[v] Guérot, **Germany and Europe: New Deal or Déjà Vu?**, 2006.

[vi] Jeffrey Vanke. 'Charles de Gaulle's Uncertain Ideas of Europe' in **Origins and Evolution of the European Union**. Desmond Dinan, ed. (Oxford: Oxford University Press, 2006.)

states of the Union does not share the worldview that inspired those visionaries who conceived of European integration as a peace project after World War II.

In terms of French specificity, the no vote is revealing of the way in which France has experienced European integration. A comparison is illustrative. Spain, which voted yes in its European Constitution Treaty referendum, experiences the European Union that resulted from the Maastricht treaty revisions in terms of the economic reconstruction made possible by cohesion funding and democratization after the Franco era. France, in contrast, has the experience of industrial losses and European Union-supported privatizations of public services. In this context, the French response to European Constitutional Treaty reform is revealing in terms of what the French do not want the Union to be without indicating a rejection of the integration process. Both the 1992 and 2005 referendums indicate a high voter turn out and a genuine French engagement with issues of integration on a mass scale. In this sense, the referenda outcomes are more representative of French preferences regarding constitutional treaty reform than a parliamentary vote would have been in either case.[vii]

The popular turn out in the 2005 referenda in France as well as the Netherlands are more than simple protest votes against the Chirac and Balkenende governments. The interest of citizens to vote in these referenda is a significant democratic indicator that populations do not perceive the value-added of a European Constitutional Treaty in the areas that matter directly in their daily lives. The argument that opening the constitutional treaty revision process to citizens can alter this perception is not supported by the referenda outcomes in France and the Netherlands.

Implications for Transatlantic Relations

For some observers of European affairs on this side of the Atlantic, the intricacies of European Constitutional Treaty reform are neither easily grasped nor high on an agenda dominated by conflict in the Middle East, the increasing weight of China and India in a global marketplace, and innovations introduced by the technological revolution shaping the new millennium.[viii] The original European Communities were encouraged by United States' diplomacy in the 1950s to provide a constructive way to re-integrate a newly created Federal Republic of Germany into Western institutions, to foster the Continent's economic recovery, and to develop an integrated entity to help shoulder the burdens of the cold war environment. As the countries of Western Europe revived, their desire was to play an increasing role on the world stage. This view, most consistently articulated by General de Gaulle, led to the question 'Who speaks for Europe?'[ix]

In the present era, German unity is a reality that is economically, psychologically, and socially still difficult. The Continent long recovered economically from the ruins of war now faces the challenge that new 21st century competitors from the East are doing as well or better in the global market. The Union of 27 faces the assertiveness of Putin's Russia in the form of its dependence on energy supplies and the implications for regional security. The burdens of today that America asks Europe's Union to share require that Europe speak with a single voice in key trouble spots: 1. Afghanistan, whose reconstruction is critical to Middle East stability; 2. Kosovo/a, whose status is necessary to resolve to stabilize Serbia as Balkans countries seek Union membership; 3. Russia, whose future post Vladimir Putin offers the Union constraints as well as opportunities to shape Russia's relations with a larger Atlantic community; and 4. Darfur, whose brutal conflict the EU can influence through its use of resources and will without resort to military force.[x]

[vii] The author expresses appreciation to Miss Emilie Combaz, a doctoral student at Sciences Po Paris, for her contributions in discussions on this point.

[viii] Honor Mahony, 'Europe is increasingly fading away,' *EUObserver.com*, Brussels, 30.03.2007.

[ix] Lois Pattison de Ménil. **Who Speaks for Europe? The Vision of Charles de Gaulle**. (New York: St. Martin's Press, 1977.)

[x] Julianne Smith. **How the EU Can Act Now to Assert Global Leadership**. ***CSIS Initiative for a Renewed Transatlantic Partnership.*** (Washington, DC: Center for Strategic and International Studies, March 26, 2007.)

These global responsibilities offer the Union an opportunity to employ its soft power capabilities and thereby chart its own course as an anchor of stability in the world. This course of action is as important to the Union and its future as the present European Constitutional Treaty, which the German Presidency acknowledges in the 25 March Declaration. The fate of the European Constitutional Treaty is an internal matter. Reforms to enhance the Union's external role should continue to be explored independently of treaty revisions. As a way to prevent a re-nationalization of powers that can only weaken Europe's Union and its contribution to transatlantic relations, the German Presidency must focus the parameters of member state negotiations on institutional reforms, starting with the Presidency system, to give Europe a voice commensurate with the influence the Union has steadily acquired in the world.