

# 8 Constitutional Struggle and Euro Crisis, 2001–2012

## The Eastward Enlargement

No expansion of the designated financial resources was linked to the extension of accession negotiations to six further candidate countries that had been approved by the European Council in December of 1999 in Helsinki. As a result, countries of the first negotiation group, set up in December of 1997 in Luxembourg, reacted to the increased competition with something less than enthusiasm. At the same time, however, a “race to Brussels” also developed among the candidates: Each country now wanted to attain the status of readiness for entry as early as possible and thus secure the best conditions for that entry. The pace of reform in the countries of the first group, which had slackened after the success of Luxembourg, once again accelerated; and the countries of the Helsinki group made intensive efforts to catch up with the Luxembourg group.

Clearly, there was a danger of problematic setbacks in the modernization and democratization process in those countries relegated to the last place in the system of successive entries based on the principle of competition. It was especially in Poland and the Czech Republic, both of which were noticeably not at the forefront of reform measures, that opposition to entry under the conditions set by Brussels threatened to become insurmountable. Doubtful too was that there would be political majorities in all the existing member states for an expansion round without Polish or Czech participation. Hence, Enlargement Commissioner Günter Verheugen ventured a major effort: In a newspaper interview in October of 2000, he hinted at the possibility that ten countries could enter at the same time in the year 2004. He then presented to the European Council in Nice a roadmap for further accession negotiations that divided the various negotiation chapters among the next three Council presidencies and envisioned a conclusion of talks at the end of 2002.<sup>1</sup>

Many of the heads of state and of government regarded the entry of ten new members in 2004 as utopian. They did however accept the Commission road map

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**1** Europäische Kommission: Strategiepapier zur Erweiterung. Bericht über die Fortschritte jedes Bewerberlandes auf dem Weg zum Beitritt 2000, KOM (2000) 700, 8 Nov. 2000. On this and the following, Graham Avery, “The Enlargement Negotiations,” in: Fraser Cameron (ed.), *The future of Europe. Integration and Enlargement*, London and New York: Routledge, 2004, pp. 35–62; Verheugen, *Europa in der Krise*, pp. 83–103; Becker, *Die deutsche Europapolitik*, pp. 63–77 and 202–260.

and thereby sparked a competition among the Council presidents, firing their ambitions to complete the negotiation chapters assigned to them within their terms of office. And to a great extent, it did succeed. During the Swedish presidency in the first half of 2001, the chapters on freedom of movement, social policy, and environment (among other things) were negotiated. During the Belgian presidency in the second half of 2001, far-reaching agreement was achieved in the areas of agriculture, energy, as well as justice and domestic affairs.

In regard to the free movement of workers, which the bordering countries Germany, Austria, and Italy viewed with great concern, it proved possible to work out a complex compromise: For a transition period of initially two years, individual member states could limit access. If necessary, this could be extended for three years and for a final time for another two years. In the area of agriculture, there was broad agreement on production quotas and the promotion of rural development; in the case of seven countries, there was also the commitment to standards for protecting animals and plants. A multi-stage plan was agreed with Lithuania for shutting down the gigantic and highly-dangerous Soviet-era nuclear power plant Ignalina. With Verheugen acting as intermediary, the Czech Republic and Austria reached an agreement allowing the new nuclear power plant in Temelin—close to the Austrian border—to enter service but also requiring that it be subject to an environmental review one more time as well as a system of communication and cooperation across borders.

In its next progress report in November of 2001, the Commission projected—after a thoroughly-critical review of developments in the candidate countries—that if the then-current reform tempo were maintained, all the candidates except Romania and Bulgaria would be ready for accession by the end of 2002. Then, in a gathering at the Brussels Royal Palace of Laeken on 14 and 15 December 2001, the European Commission declared that Estonia, Poland, Slovenia, the Czech Republic, Hungary, and Cyprus as well as Lithuania, Latvia, Slovakia, and Malta should comprise the group for which negotiations were to be completed by the end of 2002. For Romania and Bulgaria, entry in 2007 was envisaged.

In order to achieve this negotiation goal, it was necessary to deal with some areas that were sensitive (because they were financially related): direct payments for the Common Agricultural Policy, promotion of structurally-weak regions, and participation of the new member states in the financing of the Community. It proved possible to neutralize struggles over inevitable apportionment thanks to the fact that the Council presidency in the first half year of 2002 had to be held by Spain. This meant that the Spanish government could no longer serve as the spokesman for those in the South who were protective of the status quo. Moreover, the governments of all the member and candidate countries were now condemned to success: After a common timetable for no fewer than ten accession

candidates had become binding, no one could any longer risk taking the blame for the failure of the great accession project.

In late January of 2002, the Commission presented an apportionment proposal with 40.16 billion euros of additional resources for the years 2004 to 2006. This was admittedly somewhat below the financial framework agreed in Berlin in 1999, but with incremental incorporation of the new members into the system of direct subsidies of the Common Agricultural Policy, it opened the way for significant additional burdens in the future. In the first year of membership, farmers in the new member states were to receive twenty-five percent of that which was paid in older member states, thirty percent in the second year, and so on until one hundred percent was reached in 2013. As to regional structural promotion, the existing assessment ceilings for recognition of areas to be promoted were to be retained. Accordingly, all the countries entering (except Cyprus) would fall into the highest category (“Target 1”). Only the capital regions of Prague, Bratislava, and Budapest would fall within the limits of “Target 2” in terms of eligibility for assistance. A sum of 25.6 billion euros was earmarked for the first three years of assistance.

In the eyes of the net-payers Germany, Great Britain, Sweden, and the Netherlands, it was especially the inclusion of the new countries in the system of direct subsidies that went too far. Instead, they called for a reduction in direct subsidies for the old members as well, so as to free up additional resources for assistance to the new members. France opposed this, and so over the course of the first half of 2002, a severe Franco-German dispute developed over agricultural reform. It was resolved only via a meeting between Schröder and Chirac in the run-up to the Brussels Council of 24 and 25 October 2002: Germany now accepted the direct payments to the new members. However, the total expenditure for direct payments and for the organization of markets was frozen until 2013 at the (high) level of 2006. The incremental incorporation of the new member states thereby implied an incremental reduction of the payments in the old states from 2007 onward. Furthermore, Chirac finally conceded in the struggle over greater weighting of German votes in the Council of Ministers.<sup>2</sup> On the basis of this compromise, the Council was able to make the policy decision for acceptance of the ten applicant countries on 25 October. In the process, the maximum contribution for the Structural and Cohesion Fund was reduced from 25.6 to 23 billion euros. The annual inflation adjustment of 1.5 percent that Schröder had conceded to Chirac for the assessment of the agricultural budget from 2007 onward was reduced to one percent in the face of stubborn insistence from Dutch Prime Minister Jan-Pieter Balkenende.

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<sup>2</sup> Chirac, *Le temps présidentiel*, pp. 526.

The accession candidates were visibly disappointed by the outcome of the struggle over the apportionment of the resources for assistance. It was especially Polish Prime Minister Leszek Miller, being pushed by his coalition partner the Farmer's Party, who fought back strongly against a situation in which (due to the complex regulations for requesting structural resources) his country was threatened with becoming a net payer right from the beginning of its membership in the Community. The governments of the Fifteen initially accommodated the concerns of the Ten by postponing the envisioned accession date from 1 January to 1 May 2004; by this means, four months' contributions could be saved during the first year of membership. At the concluding Council meeting on 12 and 13 December 2002 in Copenhagen, Poland and the Czech Republic were accorded special cash-flow facilities for a transition period, which would be financed from the budget for structural assistance; this arrangement stemmed from a mediation proposal made by Schröder. The structural policy budget was reduced still further to 21.7 billion euros. Likewise, the new member countries were allowed the possibility of increasing the annual direct-payment quotas through the year 2006, though at the cost of resources earmarked for rural structural assistance. Poland was additionally granted higher milk-production quotas.<sup>3</sup>

Due to the increase in agricultural production quotas and the allocation of additional funds for the complete incorporation of the new countries into the Schengen area as well as securing the new external border of the Union, the total cost of obligations and payments for the new countries rose to 40.85 billion euros. Nonetheless, that figure was 10 billion lower than the highest contribution level agreed upon in Berlin. To that extent, the calculus of the Commission had been successful, having created maneuvering room for negotiation solutions by means of a lower proposal. The shifting of structural assistance into consumption—further increased by the concessions made in Copenhagen—was problematic in regard to the success of the integration process of the former planned economies. That represented the price to be paid politically for avoiding a situation in which entry into the Common Market was allowed to fail due to modernization anxieties stirred up at the last minute.

On 9 April 2003, the European Parliament approved the entry of each individual country with over ninety percent of the vote in each case. Then, the accession treaty was signed by twenty-five heads of state and of government along with their foreign ministers in a solemn ceremony in the Stoa of Attalos, the ancient marketplace at the foot of the Acropolis in Athens. Owing to the many transition

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<sup>3</sup> Cf. Barbara Lippert, "Erweiterungspolitik der Europäischen Union," in: *Jahrbuch der Europäischen Integration 2002/2003*, pp. 417–430; Peter Ludlow, *The Making of the New Europe. The European Councils in Brussels and Copenhagen 2002*, Brussels: EuroComment, 2004.

regulations, unilateral declarations, and exchanges of correspondence, the treaty comprised almost five thousand pages bound in two thick folios. In part, these additions concerned basics such as restrictions on the free movement of labor for up to seven years and restrictions on purchasing agricultural and forest land in the new countries for seven years (in Poland for no less than twelve years). There were also declarations regarding very specific interests such as the possibility of the continued hunting of brown bears in Estonia and the protection of the domestic honey bee breed in Slovenia. The entry of the new countries into the Schengen Area was made dependent on a later vote of the European Council; envisaged for October of 2007, it would actually take place only a year later. As to entry into the euro area, the same criteria and procedures used for the founding members were to apply to the new countries. The first new member to join the monetary union was Slovenia on 1 January 2007. One year later, there followed Cyprus and Malta; a year after that, Slovakia; and Estonia on 1 January 2011.

Overall, the many transition regulations ensured that opposition to the great expansion was meager in the existing EU member countries and remained below the critical threshold in the applicant countries as well. In the parliaments of the old members, only a few deputies voted against the accession of the new members. In the referenda held in all entering countries except Cyprus, the approval rate varied between fifty-four percent in Malta, which was divided as to European politics, and ninety-two percent in Slovakia. In Poland and the Czech Republic, more than seventy-seven percent of voters gave their approval, whereas in Hungary it was eighty-four percent.

Memories of the energy-sapping struggle over the terms for Eastward expansion faded into the background at the special summit of the twenty-five heads of state and of government held on 1 May 2004 at Phoenix Castle some twenty miles from Dublin. “I saw many a teary eye this afternoon in Ireland,” reported Verheugen, “No one at this moment was thinking of milk quotas, internal-market regulations, or convergence programs.” What prevailed was satisfaction over the Community achievement, in which outstanding politicians of the old as well as the new member countries, such as Danish Prime Minister Anders Fogh Rasmussen as Council president during the last negotiation period and Polish President Alexander Kwasniewski, had had their share, just as Prodi and Verheugen did too. And there was a sense for the symbolic meaning of the day: “This is Europe’s triumph over the twentieth century,” was how Latvian Foreign Minister Sandra Kalniete formulated it; she was to become one of the first members of the EU Commission from the former Soviet imperium.<sup>4</sup>

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<sup>4</sup> Verheugen, *Europa in der Krise*, pp. 63, 68.

The self-confidence and solidarity of the network of expansion strategies that had developed here rubbed off on the European institutions. After representatives of the new member states had already been participating in the work of Parliament and the Council of Ministers as “active observers” since the signing of the accession treaty, the Commission was expanded by ten new members on 1 May 2004. As in the case of Latvia, it was predominantly experienced European politicians of the rank of minister or top-level civil servant who transferred to the Commission. The new countries had been represented in a normal manner in the European Parliament since the elections of 10 to 13 May 2004. It was the case however that the euphoria over the successful expansion did not go far enough to have Borislav Geremek elected president of the European Parliament. This prominent Polish historian, longtime advisor to the Solidarity Movement and foreign minister from 1997 to 2000, had been put up by the liberal faction but lost in the first round of voting on 20 July owing to the now-traditional arrangement between the two largest factions, the European People’s Party and the Socialists. Spanish Socialist Josep Borrell was elected president for the first two and a half years of the new legislative period and was to be followed by the Christian Democrat Hans-Gert Pöttering in 2007.

Only to a very limited extent did the population in the old as well as the new member countries join in the euphoria over the clear success of the reunification of Europe. It was too seldom recognized that the path into the European Community contributed significantly to stabilizing an order based on democracy and rule of law and to promoting prosperity in the post-Communist countries. Instead, there lingered diffuse anxieties in the older member countries over low-wage competition in the employment market, unforeseeable funding commitments, and a Union of twenty-five or even twenty-seven members being ungovernable. In the new member countries, conflicts continued between winners and losers of the transformation; and the tendency to revert to buried nationalist conceptions also remained strong. There was little understanding of the mechanisms of the Union and thus also of the implications of accession, which large majorities had approved.

Hence, the tension between European and Europeanizing elites on the one hand and large segments of the population of the member states on the other continued with a changed emphasis. Gains in European élan on the one side were offset by increasing nationalist reflexes on the other. In the elections to the European Parliament in May of 2004, the participation rate in the old member countries rose to 52.6 percent *vis-à-vis* the 1999 level of 49.4 percent. In the new member countries, however, the average turnout was 31.2 percent of those eligible. This was in part due to unfamiliarity with the new institutions, together with

the tendency to punish those parties that had successfully managed the accession negotiations.

What the architects of the great enlargement could not do was overcome the division of Cyprus. Initially, the leader of the Turkish ethnic group in the north, Rauf Denktaş, had opposed giving back land to Greeks who had fled to the south during the war of 1974. Then, when a majority of Turkish Cypriots became convinced that their economic problems could only be resolved by membership in the EU, the view became dominant among Greek Cypriots that the plan for the unification of both halves of the island in a federation—as presented by UN General Secretary Kofi Annan—granted too many special rights to the Turkish minority. In the referendum of 24 April 2004, the Annan Plan was approved by 64.9 percent of Turkish Cypriots and rejected by 75.8 percent of Greek Cypriots. This was much to the disappointment of the Commission, which had hoped to be able to use the accession application by the Greek Cypriot government as a means of promoting reunification of the island. Accordingly, the residents of the northern part were regarded as citizens of the EU; but the *acquis communautaire* could only be applied in the southern part for the time being. Exports from the northern part of the island to other EU countries remained dependent upon approval from Greek-Cypriot authorities, so that pledges of support from the EU Council of Ministers for accession of the north to the south could only be partially obtained.<sup>5</sup>

In the negotiations with Bulgaria and Romania, the same criteria were used that had already been in effect for the “Ten.” In the process, it became apparent that Bulgaria was making more progress than its northern neighbor in terms of ability to participate in the market, rule of law, and administrative organization. The bitter poverty of Romania, the destruction of its civil society by the Ceaușescu regime, as well as the high level of criminality and corruption resulting from it presented challenges that would not be easily overcome. In February of 2004, the reporter of the European Parliament therefore called for the Commission to suspend talks with Romania for the time being. Whereas all negotiation chapters for Bulgaria could be provisionally concluded in June of 2004, the accession of Romania was threatened with postponement until 2008.

The especially difficult negotiation chapters on competitiveness as well as justice and domestic affairs could be finalized with Romania only on 8 December 2004. The Commission thereupon took a positive position on the Romanian application as well on 22 February 2005, and the Council approved the accession treaty with both Bulgaria and Romania on 25 April 2005. Immediately thereafter,

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5 Cf. Heinz-Jürgen Axt, “Zypern: Mitglied der Europäischen Union, aber weiterhin geteilt,” in: Rudolf Hrbek (ed.), *Die zehn neuen EU-Mitgliedsländer. Spezifika und Profile*, Baden-Baden: Berliner Wissenschaftsverlag, 2006, pp. 115–130; Verheugen, *Europa in der Krise*, pp. 83ff. and 93ff.

the document was signed by all twenty-seven contracting parties in Luxembourg. In order to take into account reservations as to Romania's readiness for entry, a protective clause was added whereby a postponement of the treaty's effective date from 1 January 2007 to 1 January 2008 was stipulated in the event the Council determined that severe deficiencies in the areas of competitiveness or justice and domestic affairs had not yet been eliminated; the decision was to be based on the Commission's Monitoring Reports. In the case of Bulgaria, a unanimous vote of the Council would be necessary for postponement, whereas for Romania a qualified majority would suffice.<sup>6</sup>

In its Monitoring Report of 26 September 2006, the Commission chided Bulgaria for lagging in the passage of laws and revision of its constitution. The lack of sweeping successes in combating corruption and organized crime was attested in both countries. However, the Commission could not bring itself to recommend postponing accession. Instead, it proposed continued oversight for three years after entry and mandated semi-annual progress reports from the countries. If they did not meet their commitments, they would be threatened with having their judgments and judicial decisions go unrecognized. Additionally, a mechanism was to be created for punishing deficiencies in the administration of EU agricultural funds. The Council approved these recommendations on 17 October 2006, such that the accession of Bulgaria and Romania could in fact take place on 1 January 2007. The package for financing their entry in the years 2007 to 2009, which the Council had already agreed upon in March of 2004, amounted to an additional 15.4 billion euros.<sup>7</sup>

Both of these new members certainly remained the problem children of the Eastward enlargement. In 2009, the monitoring system was extended indefinitely. In Romania, the fight against corruption and criminality was hindered by ongoing power struggles between President Traian Băsescu, elected in November of 2004, and changing prime ministers. In July of 2011, the Commission confirmed "significant steps" by the Romanian government in the reform of justice and the investigation of cases of corruption, even at the highest level.<sup>8</sup> Then in May of 2012, when incoming Social Democratic head of government Victor Ponta sought to rule by decree and remove Băsescu from office, the implementation of reforms was once again called into question. "Among us, there are cliques carry-

<sup>6</sup> Barbara Lippert, "Erweiterungspolitik der Europäischen Union," in: *Jahrbuch der Europäischen Integration 2005*, pp. 425–434; Anneli Ute Gabanyi, "Rumänien," *ibid.*, pp. 441–444.

<sup>7</sup> Barbara Lippert, "Die Erweiterungspolitik der Europäischen Union," in: *Jahrbuch der Europäischen Integration 2007*, pp. 423–434.

<sup>8</sup> Europäische Kommission: Bericht über den Fortschritt Rumäniens im Rahmen des Kooperations- und Kontrollverfahrens, KOM (2011) 460 endgültig.



ing on a battle of life and death to conquer the state and plunder it,” commented EU anti-corruption advisor Alina Mungiu-Pippidi.<sup>9</sup>

The experience with Bulgaria and Romania, along with some minor difficulties in the new European work apportionment and with the new competitors contributed to skepticism regarding further applications for entry. This was especially the case with the western Balkan states, to which the European Council in Thessaloniki in June of 2003 had conceded a “European prospect.” Croatia had submitted an application as early as February of 2003. It was followed by Macedonia’s in March of 2004, Montenegro’s in December of 2008, Albania’s in April of 2009, and Serbia’s in December of that year. In April of 2004, the Commission certified that Croatia was fundamentally capable of accession; after a delay due to insufficient cooperation on the part of Croatian authorities with the International Criminal Court for the former Yugoslavia, negotiations began in October of 2005. The Commission—now under the presidency of José Manuel Barroso of Portugal and with Olli Rehn of Finland as enlargement commissioner—developed an incremental process that made the beginning of accession negotiations explicitly dependent on the fulfillment of preconditions: Initially, there was to be a review to determine if the preconditions for the conclusion of a Stability and Association Agreement (SAA) existed; then, if the commitments of the SAA were adhered to, the status of candidate for accession would be awarded. Entry negotiations were to begin only after there had been significant progress on economic and *acquis* criteria.<sup>10</sup>

Macedonia was accorded candidate status in December of 2005, and in October of 2009, the Commission recommended that accession talks be started. In the Council, however, this recommendation was blocked by Greece: The Athens government insisted that the Republic of Macedonia change its name such that any claim to Macedonian areas of Greece would be excluded: Up to that point, a formulation acceptable to both sides had not been found. Montenegro received candidate status in December of 2010, and entry negotiations began in June of 2012. Serbia had been declared a candidate in March of that year, and entry negotiations started in January 2014. Albania has up to this point not yet gone beyond the status of an associated state, however. Bosnia-Herzegovina and Kosovo, which have not yet submitted applications for accession, are still in the run-up to a Stability and Association Agreement. Impulses for negotiation in the

<sup>9</sup> Quoted from the *Westfälische Nachrichten*, 22 Aug. 2012.

<sup>10</sup> Europäische Kommission: Strategiepapier zur Erweiterung, KOM (2005) 561 endgültig, 9 Nov. 2005. Cf. Barbara Lippert, “Die Erweiterungspolitik der Europäischen Union,” in: *Jahrbuch der Europäischen Integration 2006*, pp. 429–440.

neighboring states Austria and Greece have proven too weak to unleash a stronger integration dynamic in the Balkan States.

The Commission sought to respond to the languishing integration dynamic in the Western Balkans by seeking a breakthrough in negotiations with Croatia in 2009. This plan was however thwarted when Slovenia blocked the opening of the last twelve negotiation chapters with reference to the conflict between Slovenia and Croatia over the course of the border in the Adriatic. Only after the Slovenian government in September of 2009 had—under pressure from the Swedish Council presidency—declared its willingness to leave the final settlement of the border to an international court of arbitration could negotiations then enter the final phase. Here, it was especially the governments of the Netherlands, Denmark, and Great Britain that once again stepped on the brakes because they still perceived significant deficits in justice, the fight against corruption and criminality, as well as cooperation with the tribunal in The Hague. On 11 June 2011, however, Commission President Barroso was able to declare the negotiations completed. The accession took place on 1 July 2013.<sup>11</sup>

While the expansion in the Balkans suffered due to the painful aftereffects of inherited ethnic conflicts and significant lack of a democratic tradition, it was the case with Turkey that concerns increasingly arose over the cultural compatibility of a state shaped by Islam and over the Community's capacity to absorb it. Critics of the country's entry repeatedly pointed out that in 2013 Turkey's population of seventy-nine million was about as large as all ten of the countries that had entered in 2004; but it was expected to have only half the combined economy of those ten members.<sup>12</sup> The accession of Turkey would mean "the end of the European Union," as former French President Giscard d'Estaing warned in *Le Monde* in November of 2002.<sup>13</sup>

The reforms that the Turkish political system had brought itself to undertake in the period from 2002 to 2004 thus did not have the hoped-for success. In August of 2002, the Turkish National Assembly voted for the permanent abolition of the death penalty (which notably meant not executing PKK leader Abdullah Öcalan), approval of the Kurdish language in radio and television programming and also in private educational institutions, the right of religious minorities to purchase land, as well as the admission of liaison offices of foreign non-governmental organizations. After the electoral victory of the conservative-religious Justice Party (AKP) in November of 2002, new Prime Minister Recep Tayyip Erdoğan achieved

<sup>11</sup> *Ibid.*, 2011, pp. 503–516; Sisina Kusic, "Kroatien," *ibid.*, pp. 513–516.

<sup>12</sup> Cf. for example Wolfgang Quaisser and Alexandra Reppegather, *EU-Beitrittsreife der Türkei und Konsequenzen einer EU-Mitgliedschaft*, Munich: Working Papers, 2004.

<sup>13</sup> *Le Monde*, 9 Nov. 2002.

a fundamental liberalization of Turkish criminal law and the “civilianizing” of the National Security Council, which up to that point had been dominated by the military. Moreover, he brought about a transformation in Turkey’s policy on Cyprus: From the winter of 2003–2004 onward, the reunification of the island on the basis of the Annan Plan was supported by Turkey.

After contentious internal discussion, the Commission found in its progress report of 6 October 2004 “that Turkey fulfills the political criteria to a satisfactory extent” and recommended the opening of negotiations on accession. No concrete date for this was specified, however. Instead, the Commission announced stepped-up oversight of the reform process, made mention of the possibility of the suspension of negotiations, and emphasized “that this is an open-ended process whose outcome cannot be guaranteed in advance.” It declared that a conclusion could only come after decision-making on the financial preview for the period from 2014 onward. Additionally, the accession treaty was to have long transition regulations and perhaps even indefinite protective clauses in regard to the free movement of labor, for example.<sup>14</sup> After further contentious discussion, the European Council in a Brussels meeting of 16 and 17 December 2004 opted for beginning negotiations on 3 October 2005. It insisted however that the measures on the reform of criminal law be implemented beforehand and that a supplementary agreement for harmonizing the Customs Union between Turkey and the Community with the ten new members be signed as well. Indirectly, the Council thereby made the recognition of the new EU member Cyprus by Turkey a precondition for the actual start of negotiations.<sup>15</sup>

Of necessity, the Erdoğan government agreed to sign the additional protocol to the Treaty of Ankara. Under domestic pressure over the prospect of becoming a second-class member, however, the Turkish government declared at the signing on 29 July 2005 that this action was not be regarded as recognition of the Republic of Cyprus. It therefore did not apply the protocol to Cyprus; that is, Turkish ports and airports remained closed to ships and aircraft from the Republic of Cyprus. This did indeed allow the opening of talks on 3 October 2005 as planned. An attempt by the Austrian government to write into the negotiation framework a mere “partnership” as an alternative goal was derailed at the last moment. Yet, after the Turkish government stood firm in its position of not applying the addi-

<sup>14</sup> Europäische Kommission: Empfehlung der Europäischen Kommission zu den Fortschritten der Türkei auf dem Weg zum Beitritt, KOM (2004) 656 endgültig, 6 Oct. 2004.

<sup>15</sup> European Council: Presidency Conclusions, Brussels, 16-17 Dec. 2004. Cf. Peter Ludlow, *Dealing with Turkey. The European Council of 16–17 December 2004*, Brussels: EuroComment, 2005; Barbara Lippert, “Die Türkei als Sonderfall und Wendepunkt der klassischen EU-Erweiterungspolitik,” in: *Integration* 28 (2005), pp. 119–135.

tional protocol even after the “screening” phase of negotiations, the EU Council of Ministers decided on 11 December 2006 to suspend talks on all chapters directly linked to the Customs Union and therefore affecting the economic core of the Community.

A spectacular failure of negotiations was thereby avoided. The reform dynamic in Turkey nevertheless waned, and the date of possible entry into the EU retreated ever further into the future. German Chancellor Angela Merkel, in office since September of 2005, assessed the strategic necessity of Turkish EU membership significantly lower than had her predecessor. Chirac’s successor Nicolas Sarkozy, elected in May of 2007, even spoke out explicitly against Turkish membership as a goal of negotiations. He vetoed the opening of five further negotiation chapters (economic and monetary union, Common Agricultural Policy, regional policy, institutions, and budget) that he viewed as favorable to membership. Additionally, Cyprus blocked the opening of the chapters on energy as well as education and culture. Up to 2012, only thirteen of thirty-five chapters were able to be opened; only one chapter (science and research) could be provisionally concluded.<sup>16</sup>

After Erdoğan’s major victory in parliamentary elections in June of 2011, Turkish politicians began to search for alternatives to EU membership due to the stagnation in negotiations. Trade relations with the growing economies of the Middle East, Central Asia, and North Africa were expanded, the ambition grew for creating a regional power that could act autonomously, and legal harmonization with EU norms was postponed indefinitely due to the high costs involved. When in the second half of 2012 the Cypriot government took its turn chairing the EU Council, Ankara even implemented a temporary freeze in relations with the EU. This history of Turkey’s approach to Europe is not thereby at an end, but its progress is however highly uncertain.

Whereas the issue of Turkish membership remained open, a consensus gradually emerged in the EU that for the foreseeable future no prospect of membership should be offered to any other countries undergoing transformation. Instead, economic development and democratic structures should be promoted by means of financial and technical assistance along with granting market access, as the Commission had envisioned since 2004 within the framework of the “European Neighborhood Policy.” Relations with the sixteen countries for which this program was conceived have up to now developed in very different ways; agreement on a coherent strategy has not yet been reached. In 2008, at Sarkozy’s urging, a “Union for the Mediterranean” was created with the goal of

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<sup>16</sup> *Jahrbuch der Europäischen Integration* 2006, pp. 431–435; *ibid.*, 2007, pp. 425–429; *ibid.*, 2008, pp. 454–458; *ibid.*, 2009, pp. 448–450; *ibid.*, 2010, pp. 468–471; *ibid.*, 2011, pp. 507ff.

promoting regional cooperation among Mediterranean neighbors. In 2009, at the initiative of Sweden and Poland, there followed an “Eastern Partnership” that included Belarus, Ukraine, Moldavia, Armenia, Georgia, and Azerbaijan. The possibilities of neighborhood policies have been used to the greatest extent by Ukraine, Moldova, and Georgia. Up to this point, however, these countries have hoped in vain for any prospect of accession.<sup>17</sup>

In contrast, the institutions of the EU and the governments of the member states had no problem in positively receiving the accession application of Iceland, submitted to the chair of the European Council on 16 July 2009. The small island nation in the North Atlantic had decided on this step after the financial collapse of 2008 brought its government to the verge of bankruptcy. A majority of Icelanders believed that the financial turbulence could only be overcome via membership in the Eurozone. To accomplish this, they were prepared to accept reductions in the exclusive use of their fishing grounds. Given that Iceland had already been integrated into the European Economic Area since 1994 and had additionally joined the Schengen Agreement in 2001, the complete adoption of the *acquis communautaire* seemed relatively unproblematic to arrange. Entry negotiations began on 27 July 2010 and made rapid progress.<sup>18</sup> After the massive devaluation of the Icelandic króna had helped the fishing and tourism industries get back on their feet, however, the attitude of the descendants of the Vikings changed over the course of 2012. Following the victory of the conservative Independence Party in parliamentary elections in May 2013 the new government suspended the negotiations for an indefinite time.

With the conclusion of the expansion project of 1999, the signs thus predominantly pointed toward consolidation of the EU 28. This was and will be rightfully seen as the prerequisite for having the Union remain capable of acting and for having its interests on the European and international stages to be appropriately represented.

## The Constitutional Treaty

There had been fears, primarily in France, that the Union would become incapable of acting after the great expansion; yet it did not turn out that way. This was above all attributable to the talks over further treaty reform, approved by

<sup>17</sup> Karin Böttger, *Die Entstehung und Entwicklung der europäischen Nachbarschaftspolitik. Akteure und Koalitionen*, Baden-Baden: Nomos, 2010.

<sup>18</sup> Burkhard Steppacher, “Island,” in: *Jahrbuch der Europäischen Integration* 2010, pp. 479ff. and *ibid.*, 2011, pp 511ff.

the European Council in Nice in 2000, and running parallel to negotiations on accession.

In preparing for the government conference of 2004, France and Germany once again worked closely together. Given the hangover from the disastrous impression that their confrontation during the Nice summit had left, Chirac and Schröder very quickly came to agreement that they would in future meet every six to eight weeks on very intimate terms, accompanied only by their foreign ministers, to discuss ongoing problems of European politics over dinner. At the first of these meetings, held at Chirac's initiative on 31 January 2001 in the Alsatian town of Blaesheim near Strasbourg, the two leaders agreed to work out a joint position in preparing for the government conference. This did not come about as quickly as anticipated however because Foreign Minister Herbert Védrine was anxious not to give up control over the reform process. On 31 May, the European Parliament voiced its support for organizing the preparations for the government conference in the form of a convention following the model and the division of mandates of the Convention on Fundamental Rights. Chirac and Schröder then pushed through the vote for a convention and for the development of a constitution as a joint position. In a joint resolution issued at the seventy-eighth Franco-German summit on 23 November in Nantes, they proclaimed their resolve "to seek agreement consistently and persistently on all issues that will arise from the activity of the convention."<sup>19</sup>

Belgian Prime Minister Guy Verhofstadt could thus be sure of support from Chirac and Schröder when as Council president in the second half of 2001 he sought suggestions from the governments for institutional reform of the Union. These were to be discussed at a convention made up of representatives of the governments, the national parliaments, the European Parliament, and the Commission. He also advocated giving the reform the character of a constitutionalization. In order to structure the talks, he presented to the European Council in the Laeken district of Brussels on 14 and 15 December 2001 a catalogue of no fewer than sixty-seven questions on which the convention was to take a position. The convention's talks were to begin on 1 March 2002 and be completed within a year. It was to meet publicly and to be open to input from civil society.

Verhofstadt's proposal to charge the convention with the development of a single draft constitution that would then be binding to a great degree on the subsequent government conference could not win acceptance at Laeken. After contentious discussion, it remained an open question in the "Laeken Declaration" as to whether several alternative drafts could be available at the end of the

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<sup>19</sup> *Internationale Politik* 67 (2002), p. 101. On the initiation of the Blaesheim process, also Chirac, *Le temps présidentiel*, p. 311.

talks. In other respects, however, the heads of state and of government accepted the Belgian proposal, including the composition of the convention (one representative per government, two per national parliament, sixteen members of the European Parliament, two representatives of the Commission, along with representatives of the governments and of the parliaments of the candidate countries in an advisory capacity). They also accepted the strong position of the convention president, who was to produce an initial working basis for the convention and “evaluate” the public debate in the plenum for each successive session.<sup>20</sup>

Valéry Giscard d’Estaing became the president of the convention. The former president of France had since late September insistently put his name in play for this office, and Chirac supported him—firstly, because Chirac wanted to see a French person hold the position and, secondly, because he hoped to be able to neutralize a potential opponent in his own re-election bid. When Schröder immediately concurred with Chirac’s choice, no other candidate had a chance—neither Jacques Delors, who had hesitated all too long, nor Dutch Prime Minister Wim Kok, nor his former Italian colleague Giuliano Amato, whom the leaders of the smaller member countries, among them Verhofstadt, would have preferred. In the end, the nomination of Giscard was unanimous after Verhofstadt had proposed adding two vice presidencies and had also put forward Amato and former Belgian Prime Minister Jean-Luc Dehaene for those posts. Amato and Dehaene, a Socialist and a Christian Democrat respectively, were also nominated unanimously.<sup>21</sup>

The convention took up its work on 28 February 2002. Rather than being led by its president, it was *de facto* under the leadership of a twelve-person presidium that consisted of representatives of all member groups. Giscard certainly had his own ideas as to how the convention was to be run and to what results it should come; in the nonpublic debates of the presidium however he occasionally had to defer to the better argument. Klaus Hänsch, one of the two representatives of the European Parliament on the presidium, confirmed that the seventy-six-year-old president exhibited an “astounding combination of leadership ability and willingness to learn.”<sup>22</sup> The presidium succeeded with its proposal that the conven-

**20** Erklärung von Laeken zur Zukunft der Europäischen Union, among others in: Daniel Göler, *Die neue europäische Verfassungsdebatte. Entwicklungsstand und Optionen für den Konvent*, Bonn: Europa Union, 2002, pp. 112–122. Cf. *idem.*, “Der Gipfel von Laeken. Erste Etappe auf dem Weg zu einer europäischen Verfassung?” in: *Integration* 25 (2002), pp. 99–110; Peter Ludlow, *The Laeken Council*, Brussels: EuroComment, 2002; Fischer, *Die rot-grünen Jahre*, pp. 357–360.

**21** Didier Pavy, “Giscard: retour par l’extérieur,” in: *Le Nouvel Observateur*, 20 Dec. 2001.

**22** Hänsch, *Kontinent*, p. 166. On the work of the convention, *ibid.*, pp. 161–205; Alain Lamassoure, *Histoire secrète de la Convention européenne*, Paris: Albin Michel, 2003; Andrew Duff, *The Struggle for Europe’s Constitution*, London: Federal Trust for Education and Research, 2007; Peter Norman, *The Accidental Constitution. The Story of the European Convention*, Brussels:

tion commit itself to seeking consensus. This meant that instead of having the plenum vote on differing proposals, the president would in the end determine where the consensus on an issue lay. Consensus was to be determined by that which had not met with “considerable opposition” in any member group. What exactly constituted “considerable opposition” was left to the discretion of the president.

In fact, opposition needed to be watched especially when it came from of the ranks of the governments. The convention was programmed to reach a compromise that could not be called into question by the subsequent government conference. The process ensured that at the end there would not be several drafts but rather only one—a draft behind which there stood something more than a slim majority. Such a draft could not be sidestepped by the governments. Foreseeable opposition by individual governments to individual points would thereby be isolated; the veto power of each government, which had made previous government conferences so arduous, thus tended to be devalued. Compromise no longer amounted to the least common denominator but rather constituted that which was genuinely achievable with common sense in light of actual power relations.

In order to have time enough to find consensus, the presidium approved an additional three months’ work time for the convention right at the beginning. The results were however to be available for the European Council in June of 2003. Nevertheless, the exchange among working committees, led by a member of the presidium, in meetings with member groups and with families of political parties had progressed so far in the plenum and in the presidium that Giscard d’Estaing could present the presidium with a first skeleton of the draft treaty by October of 2002.

This outline foresaw the dissolution of previous treaties on the European Union and the European Community as well as the replacement of the three-pillar structure of Maastricht with a unified treaty. A first section would describe the principles, the organs, and the processes. The Charter of Fundamental Rights approved in Nice would follow as a second section. A third would consist of the previous treaty contents regarding the three pillars, including process modifications. The treaty was to be termed a “constitution” regardless of the fact that it would be approved by the states involved and would not rest upon the vote of the European people. For the first time, there would also be provision for the possibility of an exit from the Union.<sup>23</sup> Some individual participants such as Hänsch

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EuroComment, 2003; Mathias Jopp and Saskia Matl, “Perspektiven der deutsch-französischen Konventionsvorschläge für die institutionelle Architektur der Europäischen Union,” in: *Integration* 26 (2003), pp. 99–110; as well as the contributions in *Integration* 26 (2003), vol. 4, pp. 283–575.

**23** Preliminary draft Constitutional Treaty, 28 Oct. 2002, CONV 369/02.



had concerns about employing the constitution concept, thinking that it might give impetus to criticism of a presumed “superstate”; but Giscard knew how to push such concerns aside.

With the presentation of the outlines of a constitutional treaty on 28 October, the character of the convention’s work changed. Whereas up to that point skepticism had predominated as to whether the convention would bring forth anything more than nonbinding declarations of intent, now it seemed that it actually would be in a position to predetermine the future character of the Union to a great extent. Hence, the governments now increasingly sought to influence the results of the talks. Foreign minister Joschka Fischer took over the representation of the German government in the convention himself; SPD General Secretary Peter Glotz had earlier held that position. Chirac’s new Foreign Minister Dominique de Villepin replaced Europe Minister Pierre Moscovici, who had been appointed by the Socialist government of Lionel Jospin. The French and German governments then submitted a series of joint positions to the convention.

The compromises that they had to accept in so doing primarily affected the configuration of the executive of the Union. Whereas Chirac had initially joined Giscard in supporting the appointment of a fulltime president of the European Council, who could access the executive powers of the Commission, the German government along with those of most of the smaller states advocated the election of the Commission president by the European Parliament and his assignment as chairman in the European Council. The compromise consisted essentially in that the German government now also backed the introduction of a fulltime president; however, he was to be elected for only two-and-a-half years (with the possibility of one re-election). Also, he would not be able to encroach upon the purview of the Commission. The convention revised the election process of the Commission president by Parliament (which was now acceptable to France) by stipulating that it take place at the recommendation of the European Council. However, the Council was to make its recommendation while “taking into account the elections to the European Parliament.”<sup>24</sup>

The German proposal to assign the Commissioner for External Relations the chairmanship of the Council for External Relations and Defense and so to become the “foreign minister” of the Union was modified: The foreign minister named by the European Council with the approval of the Commission president would at the same time be a member of the Commission. He would be solely responsible for initiatives in the areas of foreign policy; the Commission would no longer hold that authority collectively. As a vice president of the Commission, however, he would also be intimately involved into the work of the Commission. The Direc-

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**24** Article I–26 of the draft Constitution.

torate-General for External Relations and the foreign-policy areas of the Council Secretariat were to be combined in one European Diplomatic Service. The Franco-German demand for majority decision-making in foreign policy (but not for military or defense-policy aspects) failed once again in the face of British opposition. The advocates of a more effective foreign policy only won the possibility of increased cooperation among a core group of states extending to all areas of CFSP and ESDP, along with the establishment of higher hurdles for blocking it by individual members.

The role of the European Parliament as a legislature was further strengthened—above all by abolishing the distinction between obligatory and nonobligatory expenditures, a proposal made by the Benelux states. This meant that the agricultural budget, the largest item in the budget, was now in the area of co-equal legislation. In the future, Parliament was to collaborate in ninety-two political areas rather than only thirty; in some seventy of those areas, it was now to be on an equal footing with the Council of Ministers, rather than only thirty as heretofore. The scope of the budget was still to be determined by the Council of Ministers on a unanimous basis. Its apportionment was however to be made by majority decision and a parliamentary majority would also be needed.

Following upon a Franco-German proposal, meetings of the Council of Ministers were to be public insofar as the body acted in a legislative capacity; and “as a rule” it was to decide by qualified majority. However, fearing that otherwise the whole treaty would be blocked by some governments, majority rule would be breached not only in regard to foreign policy. Other areas that would continue to require unanimity were decisions on the system and upper limit of financial resources, important measures in the realms of domestic affairs and justice policy (harmonization of penal law, creation of a European attorney general, police cooperation) and sensitive areas of trade policy (services in the realms of culture, radio and television, social policy, education, and health). At Germany’s behest, the choice of various sources of energy was still to remain at the national level.

After Chirac had given up his resistance to more strongly taking into account the demographic factor in the weighting of votes in the Council, the principle of double majority (that is, majority of the member states plus majority of the population) could be put through. It was indeed the case that the representative of Spain in the presidium sought to defend the settlement made in Nice, which was significantly more favorable to both Spain and Poland; in so doing, however, he ended up more and more isolated. At the end of a stormy session of the presidium in late May of 2003, Giscard d’Estaing determined shortly before midnight that there was consensus on the formulation “majority of the member states, which

represented at least three fifths of the population of the Union.”<sup>25</sup> There was no further attempt in the plenum to call this result into question.

Still more intense was the controversy over the issue of the size of the Commission. Whereas Giscard and most of the representatives of the larger countries spoke in favor of a significant reduction in the number of seats on the Commission, the representatives of the smaller countries persisted in their position that each member state must appoint one commissioner, especially in light of the decision for a fulltime president. In the end, Giscard voted for a compromise that left hard feelings on both sides: A Commission consisting of fifteen members (president, foreign minister, and thirteen commissioners) along with non-voting Commission members from those countries not represented among the fifteen (with twenty-seven member countries, there would thus be another twelve members). In contrast, there was general agreement on the further strengthening of the position of the Commission president: He was in the future to be able to choose his Commission members from among three proposed candidates from the respective countries. He was also to be able to determine the structure of his Commission and exercise policy-making power for its work.

In the compilation of individual treaty elements into a complete draft, Giscard presented to the presidium and to the public in late April the idea of setting up a congress of national and European deputies, an idea originally shared by the French government as well. It was to gather once a year to pronounce upon the condition of the Union and later also to elect the president of the Union. Because this construction threatened to disrupt the arduously-achieved balance between Council and Parliament, it was rejected in the very next session of the presidium. The body then accepted some deviations from the majority principle and sent Giscard in advance to sell the result to individual member groups in separate sessions. This proved successful: “With a brilliant mixture of argument and appeal, the president won over the national and the European parliamentarians for the final compromise and pacified the grumbling representatives of the governments.”<sup>26</sup> He followed up by announcing at a press conference that consensus had been reached. It only remained for the convention members to confirm this in the plenary session of 13 June.

The draft treaty was thereby ready in time for the European Council in Thessaloniki on 19 and 20 June. There was not however enough time for a thoroughgoing discussion by the heads of state and of government. Also, the old treaty texts still needed to be revised and incorporated into the operative third part on the political areas of the Union. The members of the convention made use of the time

<sup>25</sup> Article I–24 of the draft Constitution; see Hänsch, *Kontinent*, p. 195.

<sup>26</sup> *Ibid.*, pp. 201ff.

required for these technical adjustments in order to make a few more additions to the basic section of the document. For example, a paragraph on symbols of the Union was added. This specified the circle of twelve golden stars on a blue field as its flag, Beethoven's "Ode to Joy" as its anthem, "United in diversity" as its motto, and the 9<sup>th</sup> of May as Europe Day. At the suggestion of German Social Democrat Jürgen Mayer, a European Citizens' Initiative was made possible. The Austrian Green Party member Johannes Voggenhuber succeeded in his effort to keep the Euratom Treaty out of the Constitutional Treaty; opponents of nuclear energy were not to be given a reason to decide against the document.

After final quarrels over the French demand for unanimity in decision-making on trade treaties that "could infringe upon the cultural and linguistic diversity in the Union," all members of the convention signed the revised draft on 10 July. Many did so only with grumbling and internal reservations, but the overwhelming majority was convinced that an acceptable compromise had been found, one that for the sake of needed success ought not to be reopened. On 18 July, President Giscard d'Estaing submitted the convention document in Rome to new Council President Silvio Berlusconi.<sup>27</sup>

When the government conference came together on 4 October, the foreign ministers of Spain and Poland demanded that the convention's draft not be considered at all but that instead the Treaty of Nice be taken as the starting point of negotiations. The Austrian and Finnish representatives joined with them. Passionate appeals by Fischer and Villepin were needed before the body brought itself to accept the Constitutional Treaty as the basis of negotiations. There were still demands for retaining the weighting of votes as decided in Nice (Spain and Poland) as well as for having one commissioner for each member state (Austria and Finland). Disputes over these issues were not resolved at the Council meeting in Brussels on 12 and 13 December. Berlusconi, who would gladly have signed the convention document as a new "Treaty of Rome," failed miserably in his efforts to mediate between the opposing sides.

A breakthrough in the talks first began to emerge when the Socialist José Luis Zapatero replaced the Conservative José María Aznar in elections to the Spanish Congress of Deputies on 14 March 2004. The new prime minister immediately signaled his willingness to compromise on the constitution issue, and so his Polish colleague Leszek Miller found himself isolated. With new efforts to sound out views, the Irish Council president worked out a compromise proposal, which was adopted with some modifications after a long struggle at the Brussels Council meeting of 17 and 18 June 2004. It retained the principle of the double majority

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<sup>27</sup> Draft Constitutional Treaty, Official Journal of the European Union, Information and Notices series, C 169 of 18 July 2003.

but with the quorum of member states raised from fifty to fifty-five percent and from sixty to sixty-five percent of the population. Additionally, a majority would require the affirmative votes of fifteen states or rejection by fewer than four. For the areas of justice and domestic affairs, foreign policy, as well as economy and finance, a majority of seventy-two percent was required if the proposal in question did not stem from the Commission or from the European foreign ministers, respectively.

In the putting together of the Commission, the distinction between voting and non-voting members was given up. For the first Commission formed after the Constitutional Treaty had been implemented, the Nice regulations would continue to be in force. Thereafter (that is, from 2014 onward), only two thirds of the members states would be represented in the Commission. In regard to the multi-year financial framework, the heads of state and of government insisted on unanimity in the Council; the transition to qualified-majority voting was only incorporated into the treaty text as a possibility. In the annual passage of the budget, Parliament's power to make the final decision was taken away; instead, in the event there was a lack of unity between the Council and Parliament, the Commission would have to produce a new draft.<sup>28</sup>

With these alterations, the treaty lost some of the coherence of the original draft from the presidium; and the Union lost some of its ability to act, along with some of its democratic legitimation as well. Substantial progress in collectivization, as many had wanted in regard to foreign and security policy as well as finance and budget policy, were not by and large achieved. Yet, compared to the Treaty of Nice, all the organs of the Union had been substantially strengthened structures and procedures harmonized and at least partially tightened up as well. Above all, however, there was success in getting closer to the principle of the equivalence of majority decision-making and equal co-decision-making by Parliament. This prevented the danger that with the expansion of the Union's ability to act, its democratic legitimation would be reduced.<sup>29</sup> This was made possible, firstly, by Chirac's willingness to give up Gaullist dogmas and the resulting convergence of the French and German governments on institutional questions. Secondly, however, an essential role was played by the strategic abilities of Giscard d'Estaing and his colleagues on the presidium. The representatives of the governments were torn out of their national program schemata and were confronted

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**28** Treaty establishing a Constitution for Europe. 29 Oct. 2004, Luxembourg: Office for Official Publications of the European Communities, 2005.

**29** On the significance of this principle, see Wilfried Loth, "Die Verfassung für Europa in historischer Perspektive," in: *idem.* (ed.), *Europäische Gesellschaft. Grundlagen und Perspektiven*, Wiesbaden: Verlag für Sozialwissenschaften, 2005, pp. 245–264.

with the majority opinions of elected representatives of the people, which they could not well defy.

The “Treaty establishing a Constitution for Europe” was signed on 29 October 2004 by a total of now twenty-five heads of state and of government of the Union. The ceremony took place in the same Hall of the Horatii and Curiatii in the Palazzo dei Conservatori on the Capitoline Hill in Rome in which the Treaties of Rome had been signed in 1957. It was probably without conscious intent that the signatories thereby signaled that they stood in continuity with European treaty creation up to that point. The European Union had thus far exhibited a constitutional quality insofar as it possessed an autonomous sovereign authority. Nevertheless, it did not become a state via the new treaty—the member states and their parliaments remained the masters of the treaty and its potential further development. Despite what the first-time use of the term “constitution” in the title of the treaty suggested, the heads of state and of government had in actuality approved a constitutional improvement, not the issuance of a constitution.<sup>30</sup>

## From Prodi to Barroso

Hopes for strengthening the international profile of the European Union, which Tony Blair, Joschka Fischer, and others had linked to the Eastward expansion and the project for a constitutional treaty, were only partially fulfilled, however. Yet, it was certainly the case that the formation of a European rapid-deployment force, a permanent military committee, and a military staff (decided on in 1999) were proceeding as planned. Common standpoints among the EU countries on foreign-policy issues became more frequent occurrences, thanks not least of all to the energetic and suave engagement of High Representative Javier Solana. When voting in the United Nations, the representatives of the EU countries succeeded in taking common positions approximately seventy-five percent of the time; and the High Representative received the right to speak in the Security Council. In January of 2003, the EU took over the international police mission in Bosnia-Herzegovina from the UN. Three months later, the EU assumed the military mission in Macedonia from NATO. From June to September 2003, the EU undertook a quickly-arranged peacekeeping action in the civil war in the province Ituri in eastern Congo. Altogether, some nineteen police or military missions in crisis regions had been

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<sup>30</sup> Cf. Franz C. Mayer, “Verfassungsstruktur und Verfassungskohärenz – Merkmale europäischer Verfassungsrechts?” in: *Integration* 26 (2003), pp. 398–413; in general, Werner Weidenfeld (ed.), *Die Europäische Verfassung in der Analyse*, Gütersloh: Bertelsmann Stiftung, 2005.

initiated up to the summer of 2007, and some had also been completed by that point.<sup>31</sup>

These missions received little attention from the public, however. They remained modest in scope and at least in the beginning still suffered from difficulties in coordination and conflicts over financing. After the attacks of 11 September 2001, the EU did succeed in developing a coherent strategy for combating international terrorism; this was accomplished under the aegis of Council President Guy Verhofstadt. Due to deficient military preparation and differing viewpoints, however, it was not in a position to offer a common strategy for waging war and so counter the American option for a “coalition of the willing” to fight the Taliban in Afghanistan. After the defeat of the Taliban regime, thirteen EU members and four accession candidates took part in forming an international protective force at the beginning of 2002, coordinated by the British, that was to safeguard the construction of a liberal-democratic state. A special representative of the EU made efforts—not always successful—to coordinate the national activities on site.

The European position in world politics was further weakened when Blair, Chirac, and Schröder fell out in the second half of 2002 over the issue of military action against the Iraqi dictator Saddam Hussein. In the autumn of 2001, the “Big Three” of the EU were still repeatedly coordinating with each other in the struggle against terrorism and thereby provoking dissatisfaction among the smaller EU partners. Now, however, Blair decided to embrace the American option for energetic action against the Iraqi program for producing weapons of mass destruction—even if as a consequence there would be a war that toppled the Saddam regime. For the British leader, Saddam was a “monster” who threatened the peace in the Middle East and who unhesitatingly supported the terrorism of Al Qaida. Moreover, Blair regarded it as fatal to part the company with his American ally on an issue that for the latter had become existential after the shock of 11 September 2001.<sup>32</sup>

In contrast, Chirac and Schröder were convinced that Saddam posed no immediate danger and that military action to remove him from power would only make the struggle against terrorism and the efforts to achieve peace in the Middle East more difficult. At the same time, they saw in the insistence on collective action by the United Nations an opportunity to cut down to size the high-handed unilateralism of President George W. Bush’s administration and to give new

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**31** Cf. the compilation in Mittag, *Kleine Geschichte*, pp. 301–303; in general, Christopher Hill, “Renationalizing or Regrouping? EU Foreign Policy since 11 September 2001,” in: *Journal of Common Market Studies* 42 (2004), pp. 143–63; Mathias Jopp and Peter Schlotter (eds.), *Kollektive Außenpolitik – Die Europäische Union als internationaler Akteur*, Baden-Baden: Nomos, 2007.

**32** Tony Blair, *A Journey*, London: Hutchinson, 2010, p. 423; see also pp. 395–476.

impetus to the vision of an independent Europe in world politics. After a meeting in Schröder's private apartment in Hanover on 7 September, the French president and German chancellor declared that there could be no deviation from the decision of the Security Council to have inspectors once again search for weapons of mass destruction in Iraq. With an eye to the ongoing parliamentary election campaign in Germany, Schröder added that the Federal Republic would under no circumstances participate in a military action against Iraq. Chirac avoided such a categorical commitment for the time being, likewise with an eye to the uncertain outcome of the German elections.<sup>33</sup>

In light of the hostility of broad segments of the European public to the unilateral action of the Bush administration against the "axis of evil," Paris and Berlin regarded it as opportune to propose to the European Convention "the continued development of the ESDP into a European Security and Defense Union." In a joint paper of 22 November, French Foreign Minister Villepin and his counterpart Fischer sketched out a union that would not only take on crisis missions if NATO as a whole was not involved but also would guarantee "the security of its territory and its people" and contribute to "the stability of its strategic environment." In order to become fully capable of acting, the Europeans not only ought to increase their efforts to modernize their armaments; but the Union ought also to develop its own command structures parallel to NATO.<sup>34</sup>

At the same time, Commission President Romano Prodi began to make public criticism of the British alignment with American unilateralism and to advocate a Europe "with a single voice on all aspects of external relations." In a speech to the European Convention on 5 December, he called on the heads of government to "act on their commitment to make Europe a superpower," to "build the first true supranational democracy in the world." As he continued, "speaking with one voice is essential to defend Europe's social model in a globalised world and protect our values." Particularly targeting the British government, he warned against hopes of having influence via nurturing the "special relationship" with Washington. The British ought to join in the efforts of the other Europeans in creating Europe because "Britain's full participation in Europe was required if the two continents were ever to develop into a partnership of equals."<sup>35</sup>

<sup>33</sup> Chirac, *Le temps présidentiel*, pp. 372ff. Cf. *idem*, pp. 361–401; Joschka Fischer, "I am not convinced." *Der Irak-Krieg und die rot-grünen Jahre*, Cologne: Kiepenheuer & Witsch, 2011, pp. 151–153.

<sup>34</sup> Europäischer Konvent: Gemeinsame deutsch-französische Vorschläge für den Europäischen Konvent zum Bereich Europäische Sicherheits- und Verteidigungspolitik, CONV 422/02, 22 Nov. 2002.

<sup>35</sup> "Prodi Seeks Strong Power for Brussels," 5 Dec. 2002, at <http://news.bbc.co.uk/2/hi/europe/2545331.stm>.



In the meantime, Tony Blair was working to escape from the threat of isolation by seeking support for his position on the Iraq issue among his European allies. He was relatively successful in this. He published a declaration in *The Times* of London on 30 January 2003 in which he warned of “the continuing threat to world security by the Iraqi regime” and the breakdown of trans-Atlantic relations, calling for the “disarmament” of Saddam’s regime. This declaration drew support not only from conservative Spanish Prime Minister José María Aznar along with his Atlanticist-oriented Portuguese colleague José Manuel Barroso, Danish Prime Minister Anders Fogh Rasmussen, and Italian Prime Minister Silvio Berlusconi. It was also the case that the heads of state or of government of the three largest accession candidates lent their support to Blair’s appeal: Leszek Miller of Poland, Václav Havel of the Czech Republic, and Péter Medgyessy of Hungary.<sup>36</sup> Concerned about France and Germany affiliating with Russia, these leaders made use of the opportunity to demonstrate autonomy in the face of a feared Franco-German dominance. A few days later, the other candidate countries in the East voiced similar views in the framework of a declaration of the “Vilnius Group.”<sup>37</sup>

For the advocates of an autonomous Europe, that was a nasty surprise and a bitter setback. Bush’s Secretary of Defense Donald Rumsfeld poured salt in the wound by deriding France and Germany as representative of the “old Europe,” which time had passed by: “If you look at all of the European NATO members, the center of gravity has shifted to the east. And there are many new members there.”<sup>38</sup> With a veto in the UN Security Council on 10 March, Chirac was able to prevent the legitimization of an attack on Iraq through a resolution of the United Nations. Nevertheless, the “old” Europeans were powerless in the face of the opening of the war on 20 March, and they came under heavy attack from the “Atlanticists.” US Secretary of State Colin Powell declared that Russia was to be “forgiven,” France “punished,” and Germany “ignored” in the future.<sup>39</sup>

A lack of support from the governments of the Eight did not prevent Chirac and Schröder from further advancing the project of an independent defense. At Belgian initiative, they met on 29 April with Belgian Prime Minister Guy Verhofstadt and his Luxembourgish colleague Jean-Claude Juncker in Brussels to discuss details of the path toward a defense union. In anticipation of the union, the four agreed “to get

<sup>36</sup> German translation in: *Internationale Politik* 58/3 (2003), p. 79.

<sup>37</sup> Declaration of 5 Feb. 2003. On this and the following, cf. Mathias Jopp and Sammi Sandawi, “Europäische Sicherheits- und Verteidigungspolitik,” in: *Jahrbuch der Europäischen Integration* 2002/2003, pp. 241–250.

<sup>38</sup> Press conference of 22 Jan. 2003, U.S. Department of Defense. Presscenter: News Transcript, 22 Jan. 2003.

<sup>39</sup> *Frankfurter Allgemeine Zeitung*, 24 April 2003.

going with various concrete initiatives”: a “rapid response capability,” a strategic air command, a common ABC defensive capability, a system of emergency relief aid, and European training centers. By the summer of 2004, there was above all, however, to be the creation of the “nucleus of a collective capability for planning and conducting deployments.” In concrete terms, it was planned that this central command would be based in the Belgian town of Tervuren.<sup>40</sup>

Atlanticist-oriented observers attempted to make the meeting in Brussels laughable by dubbing it a “praline summit.” Yet, the governments of the Eight increasingly came under pressure in their own countries; also, the vision of a common European foreign and security policy gained more plausibility when the victorious troops had found no weapons of mass destruction in Iraq and when a difficult-to-comprehend civil war among Sunnis, Shia, and Kurds broke out after the dictator’s fall. In October of 2003, even Blair showed tendencies toward agreeing to the creation of an autonomous command center.<sup>41</sup>

It did not come to that however because Bush was able to make it clear to the British premier that he would regard such a step as a splitting of NATO. In the end, Fischer and Villepin were nevertheless still able to put through in the constitutional convention the expansion of increased cooperation in security and defense policy. At the European Council in Thessaloniki on 19 and 20 June 2003, the heads of state and of government authorized the creation of a European armaments agency. At the Brussels Council meeting of 12 and 13 December, there was approval for a “European Security Strategy” prepared by Solana and his staff. Here, the EU committed itself explicitly to a world order “which rests on an effective multilateralism” and called for improving Europe’s ability to act through better coordination among the members, increasing the allocation of civil resources, and improving the building of “more flexible mobile deployment forces.”<sup>42</sup> None of this brought the defense *union* any closer, but security *policy* was given substance.

Blair’s ambition of having his British compatriots, even if they did not participate in the monetary union, lead the development of a powerful common foreign and security policy at the center of the Union fell by the wayside. After he had so decidedly taken the side of Bush in the dispute over the Iraq War, his appeals for

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**40** Gemeinsame Erklärung Deutschlands, Frankreichs, Luxemburgs und Belgiens zur Europäischen Sicherheits- und Verteidigungspolitik, Brussels, 29 April 2003.

**41** Stephen Wall, *A Stranger in Europe: Britain and the EU from Thatcher to Blair*, Oxford: Oxford University Press, 2008, pp. 172–175; Hans Stark, *La politique internationale de l’Allemagne. Une puissance malgré elle*, Villeneuve d’Ascq: Presses universitaires du Septentrion, 2011, p. 139.

**42** Europäischer Rat: Europäische Sicherheitsstrategie. Ein sicheres Europa in einer besseren Welt, Doc. 1088/03, Brussels, 12 Dec. 2003.

a united Europe that would play a strong role in world politics no longer had credibility. The Conservatives let themselves be seduced by their American political counterparts into placing their hopes wholly in a close alliance of Great Britain with the US. In the public sphere the reigning Euro-skepticism mutated into nothing less than hysterical hostility to Europe. “Newspapers with a combined circulation of eight million,” as Blair recalled, “were absolutely, totally, and hopelessly hostile and reported completely subjectively about it. For them, it was very simple: Everything that Brussels favored was bad for the British. The Murdoch press was especially malicious.” Given that the British, as Blair felt, “had stopped loving me,” he was no longer in a position to fight against it.<sup>43</sup>

The disputes between Blair on the one hand and Schröder and Chirac on the other continued to have an effect when in June of 2004 it came to selecting a new Commission president. Extending Romano Prodi’s term was out of the question because the president now also needed confirmation from Parliament—and the new conservative majority there was not of a mind to express support for a representative of the left. It was also held against Prodi that the fundamental administrative reform that Neil Kinnock had gotten underway led to a loss of effectiveness and creativity among EU bureaucrats in a climate of general suspicion. Prodi had understood neither how to create significant authority for himself within the administration nor how to attract attention to himself in the public or hold his own against the governments. The Commission had not played a meaningful role in the development of the Treaty of Nice or in the subsequent negotiations of the European Convention. Blair and other “Atlanticists” resented the fact that Prodi had taken the opposing side in the Iraq War; for his part, Berlusconi did not want to give a rival in domestic politics a platform any longer.

At the Council meeting of 17 and 18 June 2004, Blair and Berlusconi initially supported the candidacy of Commissioner for External Relations Chris Patten, a member of the British Conservative Party; his candidacy was promoted by the European People’s Party faction. For fundamental reasons, however, Chirac rejected a candidate from a country that belonged neither to the Eurozone nor to the Schengen Area. The French president thus underscored the fringe position in which the British had in the meantime ended up. Together with Schröder, he proposed Guy Verhofstadt. This candidate was however “too federalistic” and too anti-American for Blair. Together with Berlusconi, the British prime minister formed a defensive front, which all the “Atlanticists” joined. A resolution to this standoff could have been found in the person of Jean-Claude Juncker, but he rejected the idea of leaving his post in Luxembourg for Brussels. The Council meeting ended without having nominated a candidate.

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<sup>43</sup> Blair, *A Journey*, p. 533.

After further consultations, Irish Council President Bertie Ahern presented José Manuel Barroso as a compromise candidate. The Portuguese prime minister had indeed made a name for himself as an “Atlanticist” but had also won confidence for his consistent efforts to rehabilitate the Portuguese government budget. From his beginnings as a Maoist in his youth to his successes as a liberal-conservative prime minister, he had had a brilliant career. With his perfect command of French, English, and Spanish, he offered a refreshing contrast to Prodi, who could only express himself in his native Italian. Chirac and Schröder accepted him perforce, and so he was nominated at a special summit on 29 June. The German chancellor clearly had not forgiven Blair for having impeded Verhofstadt: “During the dinner at which Verhofstadt’s appointment was blocked, he attacked me in a very personal way. I attempted to explain to him that I was not in agreement with Verhofstadt’s conception of Europe. It was nothing personal. But Schröder made it clear to me that it was personal for him. Period.”<sup>44</sup>

A portion of the Socialists in the European Parliament continued to reject Barroso. Hence, he was unable to win the necessary majority and was compelled to make a deal: In order to gain the decisive votes of the liberals, he would refrain from giving the commissioner for industrial policy a coordinating function for all portfolios related to economic policy, a move that Schröder had demanded. With this precondition, he was elected on 22 July. Verheugen, who after the successful conclusion of the great Eastward expansion had been proposed by Schröder for this key task of the Commission, had to content himself with the title of vice president and with a normal share of the industry portfolio.

In the process of appointing members, Parliament put through further changes in the composition of the new Commission: Rocco Buttiglione, who was intended for the justice portfolio, was rejected due to discriminatory remarks about women and homosexuals; Foreign Minister Franco Frattini was given the post instead. The Hungarian candidate László Kovács had to switch from the energy portfolio to the tax portfolio, and the Latvian candidate Ingrida Udre was replaced by Andris Piebalgs, who took over the energy portfolio. Aside from that, Barroso sought to ensure the necessary coherence of the Commission, now expanded to twenty-five members, by assigning the portfolios himself and not shying away from conflicts with governments in the process. Convinced of the necessity of making promotion of economic growth, competitiveness, and employment the centerpiece of the new Commission, he saw to it that the portfolios important for those issues went to people who shared his liberal viewpoint. Thus, the Dutchwoman Neelie Kroes, who came from the private sector, held the portfolio for competitiveness;

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<sup>44</sup> Tony Blair, *Mein Weg*, Munich: Bertelsmann, 2010, p. 590. This passage is not found in the English original. On the dispute, Gerbet, *Construction*, pp. 506–508.

the internal market was entrusted to the Irishman Charlie McGreevy; and trade went to Peter Mandelson, who had provided ideas to Blair.<sup>45</sup>

The decision to make economic growth the focus of the new Commission was preceded by intense criticism of the results to date of the “Lisbon strategy” that had been approved by the European Council in 2000. At that time, the heads of state and of government had set the ambitious goal of making the EU “the most competitive and most dynamic knowledge-based economic sphere in the world” by the end of the decade; they had done so at the urging of Portuguese Council Chairman Antonio Guterres, who was advised by the dynamic economist Maria João Rodrigues. The weakness in growth that Europe had been experiencing since the 1990s compared to the US was to be overcome through “open coordination” (read: agreement on targets and measures and regular review of them). Additionally, it was declared important to create an “information society for all” and a “European area of research and integration,” a “favorable environment for the founding and development of innovative enterprises,” as well as “efficient and integrated financial markets.” The “modernization of the European societal model” was to be advanced by means of investments in education and an active welfare state.<sup>46</sup>

In the following two years, the targets had been made more precise. In 2001, ecological sustainability had been added to the catalogue of goals; in 2002, there was agreement to increase expenditures on research and development by 2010 to nearly three percent of GNP. In actuality, however, achievements in nearly all areas remained significantly below the objectives, such that the gap between American and European growth widened still further. The Commission appointed a group of experts under the chairmanship of former Dutch Prime Minister Wim Kok, which presented a provisional appraisal in November of 2004 that came to the sobering conclusion that it would not be possible to overtake or even catch up with the US by 2010.<sup>47</sup>

Barroso also saw stronger economic growth, more and better jobs and a rise in the quality of life as the key to increased acceptance of the EU and greater confidence in its institutions on the part of the population. At the beginning of his term, he therefore announced nothing less than a “renewal of Europe” to be

<sup>45</sup> *Jahrbuch der Europäischen Integration 2003/2004*, pp. 85–87; *ibid.*, 2005, pp. 91ff.

<sup>46</sup> Rat der Europäischen Union: Schlussfolgerungen des Vorsitzes, Europäischer Rat (Lissabon), 23–24 March 2000, SN 100/00. Cf. Daniel Göler, “Die Lissabon-Strategie: Ein europäischer Gestaltungsversuch?” in: Christoph Linzbach, et al. (eds.), *Globalisierung und europäisches Sozialmodell*, Baden-Baden: Nomos, 2007, pp. 147–166; Maria João Rodrigues (ed.), *Europe, Globalization and the Lisbon Agenda*, Cheltenham and Northampton, MA: Edward Elgar Publishing, 2009.

<sup>47</sup> Bericht der Hochrangigen Sachverständigenengruppe unter Vorsitz von Wim Kok, Nov. 2004, Luxemburg 2004.

achieved via a “revived and newly-oriented Lisbon agenda.”<sup>48</sup> It was especially the case that he wanted to make labor markets more flexible, modernize social welfare systems, improve the qualifications and adaptability of workers, and also employ the Structure and Cohesion Fund in a more targeted manner. “Open coordination” was to be more strongly structured via the introduction of a three-year cycle: firstly, the provision of “integrated guidelines” by the Commission, then development of national reform programs and a Community program oriented on them, and, lastly, annual reports on implementation in the member countries and at Community level.<sup>49</sup>

The commitment to national programs and annual reporting, which the European Council was willing to embrace in its Brussels session of 22 and 23 March 2005, led to increased opening of protected areas that had thus far eluded the competition of the internal market, for example, telecommunications and the realm of local government services. The level of educational attainment and the flexibility of the workforce rose. At the same time, however, the number of precarious and temporary employment situations also grew; and the ranks of the unemployed fell only marginally—the EU average dropping from 9.2 percent in 2004 to 7.0 percent in 2008, with great variations from country to country.<sup>50</sup> The economy grew at a rate of .7 percent per year—sufficient to prevent the gap with the US from increasing but too little to reduce it either. The requirements for economic growth proved too complex to be promoted with equal effectiveness via one unified strategy everywhere. At the same time, deregulation and the market focus of educational efforts associated with it posed threats that were not easy to ward off: new societal polarizations and a loss of creativity.

The efforts of the Barroso Commission within the framework of the Lisbon strategy thus did not contribute to overcoming the loss of confidence in the European project. On the contrary, they fostered the strengthening of an oppositional movement that perceived the EU and its institutions as nothing other than agents of a globalization aimed at dismantling the European social model and maximizing capital gains. It was especially within the milieu of militant globalization critics of the ATTAC organization along with neo-socialist parties and party wings

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**48** Kommission der Europäischen Gemeinschaften: Strategische Ziele 2005–2009, Europa 2010: Eine Partnerschaft für die Erneuerung Europas, Wohlstand, Solidarität und Sicherheit, KOM (2005) 12 endgültig, Brussels, 26 Jan. 2005.

**49** Europäische Kommission: Mitteilung für die Frühjahrstagung des Europäischen Rates. Zusammenarbeit für Wachstum und Arbeitsplätze – Ein Neubeginn für die Strategie von Lissabon, KOM (2005) 24 endgültig, Brussels, 2 Feb. 2005; Für Wachstum sorgen und Arbeitsplätze schaffen: Ein neuer und integrierter Koordinierungszyklus für Wirtschaft und Beschäftigung in der EU, SEK (2005) 193, Brussels, 3 Feb. 2005.

**50** Eurostat: File Unemployment Rate, National Level, 2004–2009.

that such views gained popularity. Such critics deliberately overlooked the fact that the Commission also had a concern measures to secure the social cohesion of society and, for example, called for “bringing flexibility and employment security into a balanced relationship” in the spring of 2005.<sup>51</sup>

A clear gap loomed between the grandiloquent pronouncements and actual successes of the new Commission. Furthermore, Barroso was unable to attain much of a profile in other areas of Union policy. Forging coalitions and putting through majority decisions were not his forte. It was rather the case that he withdrew proposals when there was a threat of too intense a disagreement with individual governments. “It doesn’t make sense to publish plans if the member-states will not do anything with them,” as he said, which dampened the zeal of his Commission colleagues on many occasions.<sup>52</sup>

On the other hand, Barroso succeeded in consolidating the Commission, with inclusion of the members from the many newly-entering countries. Communication between the different departments of the administration was significantly improved, and the decision-making processes within the Commission were tightened up. Many decisions were now reached during informal rounds with the president before being confirmed in weekly sessions of the commissioners. Barroso “loves to be the center of attention, and he communicates extremely well,” wrote the co-author of a study that examined decision-making practices in the Commission in the autumn of 2007.<sup>53</sup> Meetings of the twenty-seven commissioners took less time than had the sessions of the fifteen under Prodi. Over 22,000 public officials of the Commission—even then fewer than the number needed to administer a large European city such as Cologne—could once again be credited with efficiency.

The overcoming of internal crises within the Commission, ones that ultimately stretched back to the Delors era, found their symbolic expression in the return to the Berlaymont Building on the Schuman Roundabout in Brussels in the autumn of 2004—more than twelve years after the structure’s closure due to asbestos, after the failure of plans to demolish it, and after a costly renovation. Across from it now stood the building of the Council of Ministers, named for the early-modern antiquary Justus Lipsius and completed in 1996. Since 2001, Parliament had been convening a few hundred meters away in an ostentatious glass palace on the Place Léopold; due

<sup>51</sup> Europäische Kommission: Mitteilung der Kommission für die Frühjahrstagung des Europäischen Rates. Zusammenarbeit für Wachstum und Beschäftigung. Integrierte Leitlinien für Wachstum und Beschäftigung (2005–2008), Brussels, 2005, p. 6.

<sup>52</sup> Quoted from Anjo G. Harryvan and Jan van der Harst, “José Manuel Barroso 2004–2014: The cautious reformer in troubled times,” in: van der Harst and Voerman, *Presidents*, pp.249–276.

<sup>53</sup> *Ibid.* The study was published in February of 2008: S. Kurpas, C. Gron, and P.M. Kaczynski, *The European Commission after Enlargement: Does More Add up to Less?* Brussels, 2008.

to its half-round middle section reminiscent of a well-known brand of camembert, the edifice was soon dubbed “Caprice des Dieux.” Numerous other administrative offices and representations had settled in the vicinity. Hence, a well-manicured, exclusive residential district dating from the time of rapid industrial expansion in the 19<sup>th</sup> century had gradually been transformed into a government district for the Union and was also perceived as such.

The Barroso Commission had a thoroughly-constructive effect on the development of the financial framework of the Union for the years 2007 to 2013, which the Council, Commission, and Parliament approved on 17 May 2006 in an inter-institutional agreement. In the run-up to this agreement, the usual tough controversies between net-payers and net-receivers as well as beneficiaries and opponents of the Common Agricultural Policy were dealt with; the original draft, having been worked out by the Prodi Commission, was severely scaled back. The net-payers had pushed through a dwindling of the “state ratio,” that is, the claim of resources by the EU budget—from a maximum of 1.09 percent of GNP in the year 2006 to a maximum of .95 percent in 2013. The Commission was successful however in preserving the tendency toward shifting resources into the new policy areas they had sought. Thus, the “Lisbon” spending rose by seventy-one percent and expenditures for Union citizenship by seventy-eight percent, whereas moneys designated for agriculture and the development of rural areas dropped by eight percent.

Under pressure from the new member states, Tony Blair had to accept at the Brussels Council meeting of 15 and 16 December 2005 that the “British rebate” from 2009 onward could only be partially applied to the costs of expansion since 2004 and not at all from 2011. That was equivalent to a reduction in the rebate of approximately twenty percent. Other member states now also received accession discounts, though with time limits. Farther-reaching reforms were put off, though they did remain on the agenda: Under public pressure from Chancellor Gordon Brown, Blair agreed to the reduction of the “British rebate” only under the condition that the Commission be given the task of undertaking a comprehensive review of all aspects of EU expenditure and income by 2008–9. Through skillful mediation, Barroso was able to win on a series of individual items that were especially close to his heart, such as a globalization fund for re-incorporating into working life those who had been laid-off. In subsequent negotiations with Parliament, he was willing to find savings in the administrative budget that made it possible to increase expenditures for research, life-long learning, and Trans-European Networks.<sup>54</sup>

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<sup>54</sup> *Jahrbuch der Europäischen Integration* 2003/2004, pp. 163–167; 2005, pp. 95ff., 171–176; *ibid.*, 2006, pp. 92ff., 176–183; Peter Becker, “Die Fortschreibung des Status Quo. Die EU und ihr neuer Finanzrahmen Agenda 2007,” in: *Integration* 29 (2006), pp. 106–121; on the course of the Brussels Council meeting, also Blair, *Mein Weg*, pp. 591–594.



## The Constitutional Crisis

The ratification of the new Treaty of Rome occurred quickly and largely without difficulty in many countries, winning approval from broad to very broad majorities. The parliament of Lithuania was the first to approve the treaty, doing so on 11 November 2004. Hungary followed on 20 December, Slovenia on 1 February 2005, Italy on 6 April, Greece on 19 April, Estonia (in the first reading) on 9 May, Slovakia on 11 May, Austria on 23 May, and Germany on 27 May. In Spain, a referendum on the treaty was held on 20 February, with some 76.7 percent of the voters approving it; the parliament confirmed the decision on 11 May.

Blair and Chirac had likewise decided to have the Constitutional Treaty approved by referendum. The British prime minister had done so not completely of his own free will. The Conservative opposition had demanded such a referendum, and Rupert Murdoch had apparently also informed him that if the prime minister did not put the treaty up for a vote by the people, then Murdoch would withdraw the support of his mass-circulation newspapers for the prime minister. It was a surprise to all observers when on 20 April 2004 Blair announced that the voters “will be asked for their opinion”; he made this move without any prior consultation with other heads of government. He feared that without a referendum, the treaty would not pass the House of Lords. Even in the House of Commons, he was not completely sure of a majority. Additionally, it could be seen that in the next year’s parliamentary elections, the Conservatives would profit from a refusal to hold a referendum. What remained was a vague hope that a turnaround in public opinion regarding EU membership could at last come about through advocacy of the treaty. If that did not succeed, Blair would probably have to resign in favor of Gordon Brown.<sup>55</sup>

Blair’s decision put pressure on Chirac. Unlike the situation with the Maastricht Treaties, if France dispensed with a referendum on this treaty while Great Britain held one, it would have been difficult to explain to the French public. The decision for a referendum, announced during the traditional television interview on 14 July 2004, was all the easier for Chirac to make because practically all the leaders of French political parties had publicly called for one and because surveys indicated a high level of support for the constitution project. An impressive vote

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<sup>55</sup> *The Guardian*, 21 April 2004; Blair, *Mein Weg*, pp. 547ff., 582; David Gowland, Arthur Tuner, and Alex Wright, *Britain and European Integration since 1945. On the Sidelines*, London and New York: Routledge, 2010, pp. 176ff.

for the treaty might even help halt the decline in popularity of the president and his party in the face of a continuing recession.<sup>56</sup>

In the process, Chirac overlooked the fact that the recession gave fertile soil to the critics of globalization—who held the EU and its neo-liberal orientation responsible for growing unemployment and cuts in social services—and that this criticism could without any great effort be directed against a reform treaty, one which even with all the efforts toward coherence had still ended up being quite complex. The referendum had hardly been announced when strong polemics developed against the alleged attempt to carve in stone the ultra-liberal orientation of Europe. Laurent Fabius, onetime prime minister under Mitterrand, could not resist putting himself at the head of this criticism so as to win the battle to be Jospin's successor as leader of the Socialist Party and have the presidential candidacy for 2007 decided in his favor. Traditional conservative opponents of Europe such as Philippe de Villiers as well as opponents of Chirac in his own party even linked the Constitutional Treaty to a possible entry by Turkey into the European Union and frightened voters with the specter of the impending islamization of Europe.

In March of 2005, the opponents of ratification began to outstrip the advocates. Nor was it helpful that Chirac strictly forbade Barroso, the poster child of forced liberalization, to show his colors in the French debate. European Parliament deputy Daniel Cohn-Bendit of the Greens averred that the opponents of the constitution within the alternative milieu were “complètement meschugge” (Yiddish for “crazy”).<sup>57</sup> Yet such appeals to reason could no longer prevent the campaign to strengthen the European Union from becoming a campaign against unpopular Prime Minister Jean-Pierre Raffarin and Chirac too. Nicolas Sarkozy, the leader of the UMP who was impatiently speculating as to the possibility succeeding Chirac, took cover by differentiating between fatuous EU fundamentalists and more levelheaded EU realists of his own cut. On 29 May, some 54.7 percent of French voters opposed the Constitutional Treaty.

The setback for the reform plans was all the more bitter when three days later, on 1 June, the Dutch also rejected the treaty. With some 61.6 percent of the vote, the naysayers in the Netherlands had even achieved a significantly larger victory. Here too, populist criticism from the right and the left combined with general dissatisfaction with a government that had had to make painful budget cuts and that had in other respects also drawn much criticism. The rightwing populist party of Geert Wilders, which at the beginning of the year had split from the

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<sup>56</sup> Chirac, *Le temps présidentiel*, pp. 527–529. The criticism from the German side that Chirac had “unnecessarily called for a referendum only so as to split the socialist opposition” (according to Fischer, “*I am not convinced*,” p. 246; Hänsch, *Kontinent*, p. 211), is unfounded.

<sup>57</sup> Quoted from *Die Zeit*, 14 April 2005.

right-liberal VVD, found great resonance with its warnings against cheap competition from Eastern Europe and against islamization; the radical leftwing Socialist Party around Jan Marijnissen scored points by raising the specter of a “dissolution of the Netherlands” and its social-welfare model. Although all the parties in the government as well as the opposition Social Democrats and Greens had voiced support for the Constitutional Treaty, a majority of voters—additionally mobilized by the French “no” at the last minute—came out against it, though the turnout was low (62.8 percent). The rifts in Dutch consensus democracy, which had become all the more apparent since the murder of the rightwing extremist Pim Fortuyn in May of 2002, grew still deeper.

As soon as the results of the referendum in France had been announced, Council President Jean-Claude Juncker, Commission President Barroso, and European Parliament President Borrell issued a joint declaration in which they called for the continuation of the ratification process in those countries that had not yet decided on the treaty, despite the negative vote of the French. All EU countries were to have the opportunity to ratify the Constitutional Treaty. After the vote in the Netherlands, they repeated this declaration; Chirac and Schröder added their voices too. French and Dutch voters were to be put under pressure to revise their decision, following the model of the handling of the Danish “no” to the Maastricht Treaties. It was to be made clear to them that there would be no renegotiations on a “more social” Europe, which was a prospect that the pro-European maximalists among the opponents of the treaty had been holding out.

In fact, the parliament of Latvia did not let the dramatic events in France and the Netherlands keep it from ratifying the treaty on 2 June. For Blair, however, the rejection of the Constitutional Treaty by a majority of French and Dutch voters was a welcome opportunity to escape the very real danger of a personal defeat. “Great news,” as Jack Straw commented on the reports from Paris and The Hague.<sup>58</sup> While the British opponents of Europe were crowing over this, the cabinet decided on 6 June to suspend the ratification process for the time being. In light of the vote in two core countries of the Union, the path that had been embarked upon with the Constitutional Treaty had to be reconsidered—that was Blair’s argument at the European Council in Brussels on 16 and 17 June.

Given the suspension of the ratification process in Great Britain, no clear message could any longer be directed to the French or Dutch. True, the Council did declare that continuation of the ratification process was not to be called into question. At the same time, however, it appealed to all the affected parties to think over the situation together. The Council also postponed the anticipated date of the treaty’s coming into effect by one year, from 1 November 2006 to 1 November

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<sup>58</sup> Blair, *A Journey*, p. 531.

2007. In some countries, majorities for the treaty then began to crumble, and their governments decided to postpone projected referenda or parliamentary votes, respectively—this was the case in Denmark, Sweden, Poland, the Czech Republic, Portugal, and Ireland. In Luxembourg, Juncker demonstratively persisted in holding a referendum planned for 10 July, threatening to resign if there were a rejection; the treaty ended up achieving a positive vote of 56.5 percent. That alone however would not compel a revision of the decisions in France and the Netherlands nor would the support that came from the parliament of Cyprus (on 30 June) and Malta (16 July). Neither did conclusion of the ratification process in Belgium on 8 February 2006 or in Estonia on 9 May or in Finland on 18 May lead to any *volte face* in public opinion.

As Council president in the second half of 2005, Blair studiously avoided any initiative for overcoming the crisis in the ratification process. The “pause to think” that he had forced through thus became a “pause in thinking,” in which the consensus that had been laboriously achieved in the development of the Constitutional Treaty now faded away. With an eye toward the next parliamentary elections in the Netherlands, set for November of 2006, the government around Jan-Pieter Balkenende declared the treaty “dead.” Chirac, likewise keeping in mind the next electoral hurdle (in this case the presidential elections in May of 2007), developed the idea of starting from the Nice Treaty in making reforms and, furthermore, separating the institutional and content reforms. Sarkozy advocated reform in three steps: Initially, near-term reforms as soon as possible to eliminate the current grinding of the gears in the Europe of the Twenty-Five, then substantive reforms via the path of increased cooperation and, lastly, the summoning of a major new convention after the parliamentary elections of 2009.<sup>59</sup>

As had been agreed a year earlier, the European Council was to assess reflections on 15 and 16 June 2006, but it was only possible to decide on extending the reflection phase another year. German Chancellor Angela Merkel—Schröder’s successor at the head of a grand coalition of Christian Democrats and Social Democrats since September of 2005—was given the task of presenting the Commission with a report on the status of deliberations and possible future developments in the constitutional project; this report was to be submitted at the conclusion of the German Council presidency in the first half of 2007 and was to serve as the basis for further decisions. This move made it clear that there was to be no decision on the issue of further dealings with the Constitutional Treaty until after the elections in the Netherlands and France.<sup>60</sup>

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<sup>59</sup> Jacques Chirac, Declaration at the European Council 15-16 Dec. 2005, [www.elysee.fr](http://www.elysee.fr); Nicolas Sarkozy, Speech in Berlin 16 Feb. 2006, [www.botschaft-frankreich.de](http://www.botschaft-frankreich.de).

<sup>60</sup> European Council: Presidency Conclusions, 15-16 June 2006.

On the other hand, postponing the decision meant that it had essentially already been decided how it would turn out: not in favor of new negotiations on the basis of the Nice Treaty, as Blair and Chirac ultimately wanted, but rather in favor of a minor modification of the reform treaty that would enable the electorate in France and the Netherlands to revise the votes of May and June 2005. From the beginning, Angela Merkel had left no doubt as to the fact that to her the substance of the treaty was not open to negotiation and that she did not regard a division into individual parts for negotiation as a promising strategy. As she argued to the representatives of the other fifteen states that had already ratified the treaty, one should not so easily brush aside the votes of nearly two-thirds of the member states. The European Parliament was threatening to block the expansion process if the reforms were not carried out as decided upon.

On 17 January 2007, Angela Merkel made clear to the European Parliament her aspiration to bring about a solution on the basis of the Constitutional Treaty and to hammer out its decisive contours during the June summit at the end of her presidency. The details were then to be worked out in a brief government conference under the Portuguese presidency in the second half of 2007 so that the modified treaty could then still be passed before the end of the year and could come into force before new elections to the European Parliament in June of 2009. She found support for this ambitious goal among a gathering of representatives of the eighteen countries that had already ratified the treaty (in the meantime, the new members Romania and Bulgaria were among them) along with two other countries that were at base positively disposed toward the treaty (Ireland and Portugal); this gathering took place on 26 January in Madrid at the initiative of Zapatero and Juncker. The “Friends of the Constitutional Treaty,” as they dubbed themselves in a common declaration, proclaimed their resolve to adhere to the substance of the treaty, thereby putting the opponents of the treaty on the defensive.<sup>61</sup>

Council President Merkel joined together with the presidents of the Commission and Parliament on 25 March 2007 to issue the “Berlin Declaration” on the occasion of the fiftieth anniversary of the signing of the Treaties of Rome. With the votes of the twenty supporters of the treaty on their side, Merkel’s emissaries were able to move the opponents of the treaty to include in the document a passage in which the organs of the Union declared their intention “to put the EU on a renewed, common foundation by the elections to the European Parliament in 2009.”<sup>62</sup> The chancellor’s roadmap was thereby *de facto* accepted. Czech Pres-

<sup>61</sup> Ministertreffen der Freunde des Verfassungsvertrags: Für ein besseres Europa, Madrid, 26 Jan. 2007.

<sup>62</sup> Text in, among others, Michel Gehler, Österreichs Weg in die Europäische Union, Innsbruck, 2009, pp. 325–327. Cf. Timo Goosmann, “Die ‘Berliner Erklärung’ – Dokument europäischer

ident Václav Klaus, a longtime declared opponent of the Constitutional Treaty, distanced himself from this declaration after the fact. In Poland, the Kaczyński brothers (Lech Kaczyński as president and his twin Jarosław Kaczyński, initially chairman of the new government party “Right and Justice” and from July of 2006 also prime minister) were critics of Europe and continued to oppose the lack of a reference to Europe’s Christian inheritance. That could not however hinder Merkel from resolving the issue of what a compromise would look like between the “Friends of the Constitutional Treaty” and its opponents from tactical and substantive perspectives; she did so in bilateral talks at the highest level.<sup>63</sup>

The decisive line of compromise was found as early as the run-up to these bilateral conversations: After the German government had given up on incorporating the “constitution” concept into the Berlin Declaration, Nicolas Sarkozy as a presidential candidate—with clear recognition of the altered power relations—backed away without protest from his demand that the treaty package be broken into distinct reforms. From the first step of a “mini-treaty” that would do without a referendum, the rhetoric of the French election campaign shifted to the “simplified treaty” that dispensed with the constitution concept as well as the inclusion of symbols. On the very day he assumed the French presidency, 16 May 2007, Sarkozy sought out Angela Merkel in order to make clear that he would support her in the upcoming negotiations. And he did so too: Not without a sidelong glance at his own public, to whom he wanted to present himself as the person who really had overcome the constitutional crisis, he traveled to London, Brussels, Rome, Lisbon, and Warsaw in order to persuade the heads of government there to align themselves with the position on which he and Merkel had agreed.<sup>64</sup>

With this return of Franco-German cooperation, the way to overcoming the constitutional crisis was practically clear. A treaty that did not include an emphasis on a constitutional character and therefore did not require ratification via referendum was in principle also acceptable to Dutch Prime Minister Balkenende. The Dutch government that emerged from elections in November of 2006 was a coalition of Christian Democrats, Social Democrats, and Christian Union; it only called for a kind of veto right for national parliaments over the transfer of new tasks to the EU. This meant that the advocates of at least temporary retention of

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Identität oder pragmatischer Zwischenschritt zum Reformvertrag?” in: *Integration* 30 (2007), pp. 251–263.

**63** On the organization of the negotiation process, Andreas Maurer, “Die Verhandlungen zum Reformvertrag unter deutschem Vorsitz,” in: *Aus Politik und Zeitgeschichte* 43/2007, pp. 3–8.

**64** Joachim Schild, “Sarkozys Europapolitik: Das zunehmende Gewicht der Innenpolitik,” in: *Integration* 30 (2007), pp. 238–250; Paul Legoll, *Nicolas Sarkozy. Un Européen en action*, Paris: l’Harmattan, 2012, p. 97.

the Nice Treaty—especially Blair and the brothers Kaczyński—ended up in isolation. It was now only possible for them to seek to separate out from the treaty complex some elements that for them clearly went too far. Thus, the British government demanded that the character of a legal personality be taken away from the Union and that the Charter of Fundamental Rights be struck out. Beyond that, the veto right was not to be so severely limited; and the European foreign minister was to be called “High Representative for Foreign Affairs and Security Policy” as heretofore. The Polish government additionally demanded—accompanied by a heated campaign under the motto “Nice or death”—that the weighting of votes in the Council as decided in Nice be retained.

Little of that could be passed at the Council meeting in Brussels on 21 and 22 June. It was the case though that the Charter of Fundamental Rights as Part II of the treaty was taken out. The new document took on the character of an amendment treaty to the Treaty on European Union (corresponding to part I of the Constitutional Treaty) and to the Treaty on the Founding of the European Communities (corresponding to part III of the Constitutional Treaty). The legally-binding nature of the Charter of Fundamental Rights did remain however, even if in a footnote to the mandate for the government conference it was maintained that there could be no appeal to the charter in British courts. Other than that, only the title of the European foreign minister fell by the wayside. Nothing of the position or its competencies was changed, and in other respects the substance of parts I and III was preserved. Lech Kaczyński stubbornly resisted the introduction of the principle of the double majority but under pressure from Sarkozy and Juncker assented to having it come into force in 2017. When his brother Jarosław declared in a television speech from Warsaw that he rejected this compromise, Merkel announced that the mandate for the government conference could then be decided without Poland. That sufficed to have the Polish prime minister back down.

It was then possible to complete the mandate for the new government conference by the early morning hours of 23 June. The Netherlands was assured that there would be notification given to the national parliaments by the European Council six months before the expansion of majority voting or of the regular legislative procedure.<sup>65</sup> The mandate had been formulated in such detail that the government conference that met on 23 July under Portuguese chairmanship practically had only editorial work to do. The British government was nevertheless able to push through some exceptional regulations in the realm of domestic affairs and justice, and Poland joined the British declaration stating that no appeals to the Charter of Fundamental Rights would be permitted in national

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<sup>65</sup> European Council: Presidency Conclusions, Brussels, 21-22 June 2007, document number 11177/07, 23 June 2007: draft IGC mandate.

courts. The Portuguese presidency energetically opposed all other amendment attempts. At an informal gathering of the European Council on 18 and 19 October in Lisbon, the final treaty text was passed after eight more hours of negotiation. On 13 December, the heads of state and of government along with the foreign ministers signed the “Treaty of Lisbon” in a solemn ceremony within the historic walls of the Hieronymite Monastery in the Portuguese capital.

For the advocates of strengthening the European Union, the reform treaty of Lisbon<sup>66</sup> was a belated triumph. Governance of the Union became more democratic. Its efficiency in some areas was increased; in other areas, the terms of the reform ensured that, despite the great expansion, efficiency did not fall below the level of Maastricht. Angela Merkel, who with resolute exercise of her leadership role had played the decisive part in overcoming the constitutional crisis, received general recognition; on 1 May 2008, she was awarded the prestigious Charlemagne Prize of the city of Aachen. The jubilation was admittedly subdued: It was less possible to achieve additional transparency and greater closeness to the citizenry in a treaty that had to avoid explicit constitutional rhetoric and the symbols of European statehood than would have been the case in the treaty of 2004, which had already been ratified by a majority of the countries involved.

Nevertheless, the new treaty served to help not only the governments in Paris and The Hague out of a tight spot but also Blair’s successor Gordon Brown: He could now assert that the Lisbon Treaty was not a Constitutional Treaty and therefore did not require approval in a referendum. That was indeed contested by the Conservatives as well as Euro-skeptics within the ranks of Labour, but the campaign for a new referendum did not find any great support in the populace. In the House of Commons on 5 March 2008, a motion by the Conservative opposition calling for a referendum was rejected by a vote of 311 to 248. Six days later, the MPs approved the reform treaty by a vote of 346 to 206. Brown remained in office, and Great Britain remained in the EU, which was growing stronger. With its numerous “opt outs,” however, the UK clearly remained both mentally and politically on the fringes of the Union. It was no longer conceivable that Britain could take on a leadership role as had been envisioned by Blair. That Brown arrived late for the signing of the treaty and thus is absent from the official photo would prove telling.<sup>67</sup>

<sup>66</sup> Text in, among others, Klemens H. Fischer, *Der Vertrag von Lissabon. Text und Kommentar zum Europäischen Reformvertrag*, Baden-Baden: Nomos, 2008. For interpretation, Werner Weidenfeld (ed.), *Lissabon in der Analyse – Der Reformvertrag der Europäischen Union*, Baden-Baden: Nomos, 2008.

<sup>67</sup> David Allen, “Vereinigtes Königreich,” in: *Jahrbuch der Europäischen Integration* 2009, pp. 437–442.



The ratification of the Lisbon Treaty occurred with large majorities in most of the other member states. Only in Ireland did troubles arise: According to a ruling by the country's Supreme Court, a referendum on the amendment treaty was mandatory. Opponents of the treaty falsely claimed that the Lisbon Treaty endangered tax sovereignty as well as the ban on abortion and euthanasia, along with the neutrality of the country. There were also polemics against the alleged dwindling influence of Ireland (loss of a seat in the European Parliament, rotation in the occupancy of the Commission). In a climate of general distrust of the government, the result of the referendum on 13 June was a negative majority of 53.4 percent with a turnout of 53.1 percent, which was higher than originally anticipated.

The repeated “no” in a referendum gave rise to despair and perplexity for a short while. The old fronts once again emerged: Czech President Klaus declared the treaty “dead”; his Polish counterpart Kaczyński announced that he would for the time being not sign the treaty given that the Irish voted had made it “irrelevant.”<sup>68</sup> On the other side, such figures as Jürgen Habermas called upon the states that were ready for deepening the Union to embark at last upon the path to a “European core” and to put up a consistently democratic European constitution for a Europe-wide referendum.<sup>69</sup>

In contrast to the situation after the French and Dutch “no,” the heads of state and of government this time insisted that the ratification process must continue to move forward. The Irish government was only called upon to provide its opinion by the next Council meeting. At that gathering in Brussels on 11 and 12 December, the heads of state and of government then agreed on what seemed appropriate—easing Irish approval in a second referendum: “legal guarantees” that the treaty would not place limitations on Ireland in its tax policy or its position on the abortion issue or in its security and defense policy. Furthermore, the treaty was to be revised to the effect that every member state was always to be represented by a seat on the Commission.<sup>70</sup> The guarantees were given at the Council meeting of 18 and 19 June 2009; as to amending the treaty, the leaders continued in their position that it would occur on the occasion of the next accession treaty.

These assurances and concessions were meant to suffice for turning around the sentiment in Ireland. Together with a fundamental information campaign as to the actual content of the treaty, it was primarily the fear that Ireland could be

<sup>68</sup> Traktat jest martwy. Nie podpiszę go, in: *Dziennik* 1 July 2008.

<sup>69</sup> Jürgen Habermas, “Ein Lob den Iren,” in: *Süddeutsche Zeitung*, 17 June 2008.

<sup>70</sup> European Council: Presidency Conclusions, Brussels, 11-12 December 2008, document 17271/1/08, Annex I.

isolated in the financial crisis that in the meantime had developed that made the referendum of 2 October 2009 come out very differently than the previous one: With a turnout of fifty-eight percent, some 67.1 percent now voted for the Lisbon Treaty. After that, Polish President Lech Kaczyński finally acceded to the demand of Prime Minister Donald Tusk (in office since 2007) to sign the treaty, which had long before been ratified by parliament. In early November, the Czech Constitutional Court rejected a complaint filed by Czech opponents of the treaty. This meant that it could come into force on 1 December 2009—eleven months after the date that the heads of state and of government had agreed on in June of 2007 and some three years after the original deadline for the Constitutional Treaty to take effect.

Consequently, the elections to the European Parliament of June 2009 took place within the framework of the Nice Treaty. Once again, turnout fell slightly, from 45.5 to 43 percent. Decisive for that was again the extremely low mobilization in many Central and Eastern European states; in those areas, only an average of 32.2 percent of the electorate went to the polls. In countries that had already been members before the EU expansion of 2004, turnout was an average of 52.4 percent, only just below the numbers in 1999 and 2004. Overall, the parties had not understood how to make use of the opportunities for mobilization already contained in the Nice Treaty. The European People's Party did indeed voice its support for a second term for Barroso but did not make it a theme in the campaign. The Social Democrats discussed a possible candidacy by their party chief Poul Nyrup Rasmussen but could not come to agreement in the end. The deputies of the Labour Party as well as the Spanish and Portuguese Socialists openly advocated a second term for Barroso. As ever, national themes predominated in the campaign; in terms of European politics, only unsophisticated slogans flew back and forth.

Both the EPP and the PES lost votes in the election. Among the winners were smaller parties from the spectrum of those amicably disposed to integration as well as parties skeptical of and hostile to Europe. The results indicated that a grand coalition was still possible in the European Parliament, but the weight between Christian Democrats and Social Democrats had shifted significantly: The Christian Democrats could now form an alternative majority with the Liberals and the new Conservative faction (consisting predominately of conservatives from Britain, Poland, and the Czech Republic). On the other hand, the Social Democrats would require not only the Liberals and the Greens but also the Communists and representatives of both Euro-skeptic factions. Following a proven model, Polish EPP deputy Jerzy Buzek was elected president of Parliament for the first half of the legislative period. For the time being, assumption of the office by someone from the ranks of the Social Democrats remained open. In fact, the

German Martin Schulz, up to that point chairman of the Socialist faction, took office in January of 2012.<sup>71</sup>

The campaign of the majority of the Social Democrats and Greens against a second term for Barroso as the allegedly “weakest Commission president in the history of the EU” (in the words of Martin Schulz)<sup>72</sup> failed in light of the election results. At a “Blaesheim” meeting on 11 June 2009 in Berlin, Merkel and Sarkozy agreed to recommend Barroso for a second term; the European Council added its voice without any nays on 18 June. This Commission president was a bit too much consensus oriented for the tastes of the German chancellor and the French president, but in their eyes that was no reason to prevent him from continuing to serve.<sup>73</sup> Guy Verhofstadt, now chairman of the Liberal faction in the European Parliament, signaled the need for clarification regarding the future program of the Commission president and hence prevented a vote before the summer recess.

Barroso understood that it was no longer sufficient to offer his services to the governments. He promised the deputies that he would in the future exert more effort on the social dimension of the integration process, fight for an expansion of the budget, and work more closely with Parliament. Beyond that, he announced the installation of new Commission members for three tailored areas of responsibility: for Justice, Fundamental Rights, and Citizenship; for Internal Affairs and Migration; and for Climate Action. That was sufficient for him to gain the support of the European Peoples Party, the Conservatives, and the Liberals in the vote of 16 September. Most of the Social Democrats and Greens along with the European United Left voted against him or abstained. Thereafter, Barroso fended off downright sovereign claims of individual governments over certain areas of responsibility. Michel Barnier, the French Commission member, received responsibility for the Internal Market; the German Günther Oettinger had to content himself with responsibility for energy.<sup>74</sup>

Differing conceptions collided when it came to filling the top positions that had been added by the Lisbon Treaty. Under no circumstances did Merkel want Tony Blair for the office of Permanent President of the European Council, as Sarkozy had proposed. For his part, Sarkozy vetoed Jean-Claude Juncker, who would have gladly accepted the office—in contrast to his unwillingness to take on the Commission presidency five years earlier. The Frenchman had taken offense

<sup>71</sup> Andreas Maurer, “Europäisches Parlament,” in: *Jahrbuch der Europäischen Integration* 2009, pp. 47–54.

<sup>72</sup> Quoted from the *Financial Times*, 17 Sept. 2009.

<sup>73</sup> Legoll, *Sarkozy*, pp.169ff.

<sup>74</sup> Udo Diederichs, “Europäische Kommission,” in: *Jahrbuch der europäischen Integration* 2009, pp. 73–82; *ibid.*, 2010, pp. 75–84.

at the Luxembourg prime minister above all because as chairman of the Economic and Financial Affairs Council (Ecofin) in the summer of 2007, Juncker had stifled Sarkozy's nascent plans for turning away from the stability course. The twofold "no" led to unity on a compromise candidate: In the run-up to the informal Brussels summit of 19 November 2009, Merkel and Sarkozy came to agreement on Herman Van Rompuy, a Christian Democrat, who had been serving as Belgian prime minister for just over a year.<sup>75</sup>

Barroso played the key role in filling the office of the High Representative for Foreign Affairs and Security Policy: By nominating Catherine Ashton, who a year earlier had replaced Peter Mandelson as trade commissioner, he accommodated both the Social Democrats and Sarkozy. Barroso offered the French president this colleague of Blair's as compensation for the fact that Sarkozy had been unable to put through his preferred candidate for the Council presidency.

The year before, Sarkozy had made use of the French Council presidency to give new impetus to Common Foreign and Security Policy: In the conflict between Georgia and Russia, which in early August 2008 had escalated into a military confrontation, Sarkozy—in discreet agreement with his most important European partners—mediated first an armistice (12 August) and then a withdrawal of Russian troops from the core Georgian area (8 September). The recognition of the rebellious provinces South Ossetia and Abkhazia by Russia would thereby not be called into question by sanctions; the EU only sent observers who were to monitor the armistice. In the understanding among the heads of state and of government on this course, the High Representative for Foreign and Security Policy, at that time still Solana, had played no role, however.<sup>76</sup> With the decision to appoint Trade Commissioner Ashton, who had hardly any foreign-policy experience, Sarkozy could be assured that despite the institutional strengthening of the Foreign Office, not much would change in regard to the pre-eminence of the governments in the foreign-policy profile of the Union.

This foreign policy profile remained half-hearted in that Sarkozy also failed in his effort to have a permanent headquarters of European NATO generals created. Under pressure from the military establishment, he and Chirac too had originally made that demand as a prerequisite for completing the announced return of France into the integrated command of NATO. However, Sarkozy had to content himself with less prestigious *quid pro quos* after Gordon Brown, fearing that he would appear too pro-European in the eyes of British voters, had backed away from such a step and after Angela Merkel had also refrained from campaign-

<sup>75</sup> Legoll, *Sarkozy*, pp. 173–175; on the confrontation between Sarkozy and Juncker, also Petra Pinzler, "Sarkozys Zähmung," in: *Die Zeit*, 12 July 2007.

<sup>76</sup> Legoll, *Sarkozy*, pp. 136–142.

ing for the move. In October of 2008, the Pentagon conceded that France would receive command over the planning headquarters in Norfolk in the US state of Virginia as well as the headquarters of the NATO Response Force in Lisbon.<sup>77</sup> On 11 March 2009, Sarkozy announced the return of France under these terms; at the celebratory summit of NATO on 3 and 4 April, which Merkel's instigation took place in the cities of Strasbourg and Kehl together, he let himself be honored for this.

The boundaries of Common Foreign and Security Policy became clear once again when in the spring of 2011 Sarkozy urged military intervention on behalf of the rebels who had begun fighting against Libya's dictator Muammar Gaddafi. Guido Westerwelle, as foreign minister of the coalition of Christian Democrats and Liberals that had succeeded Merkel's first government in November of 2009, made it clear to Sarkozy that the risk of becoming entangled in a protracted ground war could not be discounted. He stood by this position with the tacit approval of Merkel even when both the government of Barack Obama in Washington and that of David Cameron in London came out in support of Sarkozy. When on 11 March 2011 the UN Security Council voted to support the rebels with air strikes on Gaddafi's forces and on Libyan infrastructure, Westerwelle abstained along with the representatives of Russia and China. The strikes were coordinated by NATO and carried out primarily by French and British units.<sup>78</sup>

In order to defend itself against accusations from its allies regarding deficient solidarity, the German government in late March decided to send an additional three hundred soldiers to Afghanistan to assist in radar surveillance by AWACS aircraft. This could not however undo the fact that both sides had once again ignored the commitment, contained in the Franco-German Treaty that agreement would be reached on a common position before making fundamental foreign-policy decisions. The EU had to be satisfied with activities of second rank: It organized the evacuation of EU citizens from the combat areas and engaged in humanitarian aid to the Libyan population.

Given the fact that the Germans and other EU members had remained on the sidelines, the British drew the conclusion that a further strengthening of European security structures was neither sensible nor necessary: As the success of the Libyan rebels had demonstrated, bilateral cooperation between Britain and France had worked very well and also seemed to suffice to compensate for the clear reduction of American engagement in Europe and the surrounding areas. After Gaddafi's fall in the summer of 2011, Cameron and Sarkozy visited Tripoli

<sup>77</sup> Vincent Jauvert, "Otan: Histoire secrète d'un retour," in: *Le Nouvel Observateur*, 2 April 2009.

<sup>78</sup> Mathias Jopp and Daniel Göler, "L'Allemagne, la Libye et l'Union européenne," in: *Politique étrangère* 2/2011, pp. 417–428.

together for a demonstrative celebration of their victory. The Germans found themselves subject to intense criticism regarding their alleged lack of solidarity within the alliance, and the dialogue on the development of a common European strategy completely collapsed. Catherine Ashton was not in a position to get such a dialogue going once again, nor did she apparently see it as her task to do so. Joschka Fischer, who had once dreamed of becoming the first European foreign minister, observed with a touch of despair: “One can become frightened for Europe.”<sup>79</sup>

## The Euro Crisis

After the belated completion of institutional reform, the European project was not only burdened by irritations regarding the Common Foreign and Security Policy. Over the long term, the problems arising from the completion of the monetary union would prove more dangerous.

Initially, it seemed as if the monetary union could absolutely fulfill the expectations that people had placed on it. Under the sometimes brusque leadership of Wim Duisenberg, who in 2003 succeeded the suave Jean-Claude Trichet, the European Central Bank knew how to hold the inflation rate below two percent. Only at the time of the unrest in the financial markets in 2007–08 did it rise somewhat above that level, so that the average for the years 1999 to 2010 was 2.2 percent. Even if selective price hikes during the changeover gave the impression to many consumers that they had been subjected to a pricey new currency, this rate was significantly lower than those during the same period in the US (2.7 percent) and during the fifty years of the D-mark in Germany (2.8 percent).<sup>80</sup>

Price stability in connection with the emergence of large and liquid financial markets and the disappearance of the interest rate premium for defending the exchange rate *vis-à-vis* the D-mark led to low interest rates. This unleashed a burst of growth, especially in the member states of the monetary union that had earlier been plagued by inflationary tendencies. The average annual growth in the first decade of the monetary union was 3.6 percent in Spain, four percent in Greece, and even eight percent in Ireland. France witnessed annual growth of 2.1 percent. In regard to the whole Eurozone, the growth rate at an average of 2.2 percent per year still lay below that of the US with 2.6 percent—but that was essentially attrib-

<sup>79</sup> Joschka Fischer, “Deutsche Außenpolitik – eine Farce,” in: *Süddeutsche Zeitung*, 22 March 2011. On Fischer’s ambitions, Fischer, *I am not convinced*, pp. 242, 244.

<sup>80</sup> Werner Becker, “Zwölf Jahre Euro. Aus ruhigen Gewässern in stürmische See,” in: *Vierteljahrshefte für Zeitgeschichte* 59 (2011), pp. 445–466; also on the following.

utable to the higher population growth of the US. Per capita growth in the Eurozone was 1.8 percent, whereas it was only 1.6 percent in the US.<sup>81</sup>

The monetary union also led to greater integration among the participating economies. For example, the share of trade of the euro countries within the Eurozone went from approximately 26 percent of GDP in 1998 to approximately 33 percent in 2008. It was the case that with most of the member states, intra-EMU trade reached a share of fifty percent of imports and exports. Cross-border investment increased significantly thanks to the expansion of the financial markets and the falling away of currency risk. “For example, German investors have increased their foreign security investment in euros to just over 600 billion from 1999 to September 2007. This was approximately three and a half times more than the level of 1999.”<sup>82</sup> Without the monetary union, Germany would once again have come under strong pressure to raise the value of its currency, with corresponding negative consequences for its exports and thus for growth.

The advantages of the euro were so clear that a group of new EU members joined the monetary union when the convergence criteria had been met in accordance with the treaty: Slovenia in 2007, Malta and Cyprus in 2008, Slovakia in 2009, Estonia in 2011, Latvia in 2014, and Lithuania in 2015. Denmark linked the exchange rate of the krone with the euro, which meant that it *de facto* participated in the monetary union; yet the price that Denmark paid for its fear of a negative vote by a majority of its citizens was the inability to have any influence over the bodies governing the monetary union. Furthermore, the euro advanced to become the anchor currency for about thirty-five countries closely intertwined with the EU. Its share of the currency reserves of national banks rose from eighteen to twenty-six percent over ten years; its share in the circulation of international bonds went from nineteen to 31.4 percent. Trade in euros also expanded. As the second most important currency in the world after the dollar, the euro thereby grew significantly beyond the importance of the D-mark, while the Japanese yen lost considerable weight. In global cash circulation, the euro even surpassed the dollar.

However, the weaker member states of the EMU did not make use of the lower interest rates for energetic continuation of structural reforms and investments in modernization. Instead, they let themselves be led astray into raising wages beyond the level of productivity increases and into assuming new debt as well. Given the low interest rates, private debt levels also increased significantly. This led to growing imbalances in the current accounts of those economies, and as soon as these became visible, it led to a considerable spread in interest rates for government securities. Whereas Germany’s current account grew by nine percent

<sup>81</sup> Marsh, *Euro*, pp. 311 and 401.

<sup>82</sup> Becker, “Zwölf Jahre Euro,” p. 451.

of GDP in the first ten years of the monetary union, Austria's by six percent, and the Netherlands' by three percent, it fell in Finland by three percent, in Belgium and Italy by four percent, in France and Portugal by five percent, in Ireland by six percent, in Spain by nine percent, and in Greece by no less than thirteen percent. Germany not only remained the top export country in the world but also took the leading position in the increase in exports within the euro area.<sup>83</sup>

Efforts to put a check on growing indebtedness remained half-hearted. When in 2002 Germany found itself in a growth crisis, the Schröder government, as advised by economists from all over the world, reacted by increasing government expenditures so as to revive the economy. The consequence was that in Germany too new indebtedness grew beyond the three-percent level permitted by the Growth and Stability Pact. After this three-percent threshold was crossed for a second time and another violation was looming for 2004, the European Commission on 18 November 2003 dutifully demanded a reduction of the structural deficit for the budget year 2004 under threat of monetary penalties. Against this, Finance Minister Hans Eichel mobilized resistance among the other indebted countries: along with France (against which procedures were already underway), also Italy, the Netherlands, Portugal, and Greece. On 25 November, the Ecofin Council agreed to suspend the proceedings against Germany and France. Eichel and his French counterpart Francis Mer only made voluntary commitments that the deficit for 2004 would be reduced in part and would be completely eliminated in 2005.<sup>84</sup>

In material terms, the voluntary commitments were just a bit below the demands of the Commission. In political terms, however, the Stability Pact was severely damaged by the suspension of the two proceedings. This was all the more the case after the European Court had ruled against that Council decision, and then the Council had gone on to pass a reform of the stability pact that considerably expanded the scope for assessing budget policy in March of 2005. True, the new version specified that members were committed to reducing their budget deficits during times of strong economic conditions by 0.5 percent of GDP per year, yet no sanctions were passed for cases in which this commitment was not sufficiently kept. At the same time, there was an expansion of the list of special circumstances that allowed for disregarding penal procedures when the stability goal was not being met: It now included factual findings of periods of longer weakness in growth; also, there was now a possibility of extending the period of adjustment in cases of excessive deficits beyond the previously-stipulated one-year deadline for a second year. That may well have been thoroughly sensible in economic terms. However, together

<sup>83</sup> Marsh, *Euro*, p. 312.

<sup>84</sup> Barbara Bötticher, "Währungspolitik," in: *Jahrbuch der Europäischen Integration 2003/2004*, pp. 197–202.



with the determination that in general all factors that “in the view of the affected member state are of significance” were to be taken into account, the upshot was that there would be many possibilities for dragging out or even completely blocking deficit proceedings that were in fact warranted.<sup>85</sup>

France actually did succeed in reducing its deficit in 2005 to 3.0 percent as promised. In contrast, Germany failed to reach the stability goal in 2005 with its 3.3 percent deficit and only in 2006 was able to bring it below the three-percent-threshold. Thanks to favorable economic conditions, it was possible to suspend the proceedings against the other budget violators over the course of 2007. When the European economies suffered a considerable downturn in the wake of the worldwide financial crisis in the winter of 2008–09, however, deficits in almost all Eurozone countries quickly rose well above the three-percent-threshold once again. On the one hand, government receipts fell, while considerable sums had to be invested in stabilizing the banking system and in promoting economic growth. In Germany, the deficit climbed to 3.3 percent again in 2009, in Austria to 4.1 percent, in Italy to 5.4 percent, in France to 7.5 percent, in Portugal to 10.1 percent, in Ireland to no less than 14.2 percent, and in Greece to 15.8 percent.<sup>86</sup>

This dramatic new debt was not a problem specific to the monetary union. On average, the budget deficits of the euro countries were 6.4 percent of GDP in 2009, whereas Britain’s deficit amounted to 11.5 percent, somewhat higher than Spain’s 11.2 percent. Problematic however was that the structurally-weaker countries of the Eurozone had greater difficulties getting out of the economic lows, and as a result, there was great doubt in the financial markets as to whether they would be in a position to repay their debts. Thus, the interest rates demanded for the government bonds of these countries rose dramatically even while the rates for German bonds, for example, were tending toward zero. It was out of the financial and economic crisis in Europe that a government debt crisis developed.

The first country threatened with government bankruptcy stemming from these developments was Greece. Here, the loss of credit worthiness had been intensified by reckless domestic political maneuvers: The oppositional PASOK under the leadership of Georgios Papandreou (son of the legendary prime minister of the accession period) denied the conservative government of Kostas Karamanlis support for initial measures to cut the deficit. Then, when PASOK won the sped-up elections in October of 2009 and came into power, it vigorously demanded new expenditures in order to follow through on its election promises.

<sup>85</sup> European Council: Presidency Conclusions, Brussels, 22-23 March 2005, Annex II.

<sup>86</sup> Compilation from the AMECO Database in Tobias Kunstein and Wolfgang Wessels, “Die Europäische Union in der Währungs- und Finanzkrise: Eckdaten und Schlüsselentscheidungen,” in: *Integration* 34 (2011), pp. 308–322, here, p. 312.

It then visibly expanded the deficit still further by including the debts of publicly-owned firms in the reckoning and also accused the previous government of having knowingly falsified statistics. The Karamanlis government had envisioned a budget deficit of some 6 to 8 percent for 2009, but with these developments it reached 12.7 percent by year's end. As it later turned out, even that number was too low. The great deviation from previous estimates was sufficient to cause severe alarm in the finance markets.<sup>87</sup> Banks, insurance companies, and pension funds either refused to issue any more loans to the Greek government or demanded significantly-higher risk premiums and insured themselves against loan defaults. The speculators who sold such default insurance made it still more expensive for the Greeks to borrow new money.

The threatened bankruptcy of Greece quickly brought demands for assistance measures onto the agenda of the monetary union. Numerous financial firms, not least of all German and especially French ones, had invested in Greek government paper and had earned much in the process; such a bankruptcy threatened to affect them severely. Above all, however, other weakening member states faced the threat of being discredited and hence end up insolvent if speculation on a Greek bankruptcy were to prove true. In contrast, defenders of European monetary stability—among them former chief economist of the ECB Otmar Issing—argued that the EMU Treaty explicitly precluded mutual liability among the member states.<sup>88</sup> The Germans generally felt little inclination to pour their money into a bottomless pit, and their chancellor was so dismissive of demands for support that the European public dubbed her the new “Iron Lady.”

After Merkel had again rejected any kind of assistance measures during an informal gathering of the heads of state and of government on 11 February 2010, she had to concede at the Council meeting of 25 and 26 March that coordinated bilateral loans to Greece would be possible in the event that refinancing via the financial markets were no longer sufficient. However, the decision for that had to be unanimous; moreover, the International Monetary Fund (IMF) had to be a participant in the rescue action. Sarkozy and the ECB had initially rejected that, but Merkel insisted on it so that the violation of the “no-bailout” clause of the EMU Treaty would not become any too obvious. On the other hand, the chancellor gave in a bit to the persistent pressure of Sarkozy to set up a “European Economic Government”: Council President Herman Van Rompuy was given the task of pre-

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<sup>87</sup> “So, What Is the Real Truth about the Greek Catastrophe?” in: *New Europe*, 22–28 Jan. 2012.

<sup>88</sup> Otmar Issing, “Die Europäische Währungsunion am Scheideweg,” in: *Frankfurter Allgemeine Zeitung*, 29 Jan. 2010.

senting proposals for improving the “economic-policy governance” of the Union; these were to be due by the end of the year.<sup>89</sup>

By 2 May, after further dramatic negotiations, the European finance ministers, in consultation with the IMF and the ECB and the Commission, had come to agreement on the exact nature of the aid to Greece: Up to eighty billion euros in loans could be made by the countries of the Eurozone and up to thirty billion by the IMF, at an interest rate of five percent in each case. The amount of the guarantee by individual countries was based on their proportion of the capital of the ECB. Germany therefore had to guarantee 22.4 billion, of that some 8.4 billion in the current year and 14 billion in each of the two following years. In return, Greece committed itself to a rigorous program of austerity and reform through which competitiveness and the ability to service loans were to be achieved once again. A troika made up of the Commission, the ECB, and the IMF was to supervise adherence to the consolidation commitment.<sup>90</sup>

At the instigation of ECB President Trichet, the heads of state and of government of the Eurozone in a session during the night of 7 to 8 May decided not only on this rescue package for Greece. After Sarkozy had threatened to break off the negotiations,<sup>91</sup> Merkel also agreed to the creation of a “rescue fund” for the entire Eurozone for the next three years so that countries such as Ireland, Portugal, and Spain would not be infected by the Greek crisis. The details of this rescue fund were agreed upon by the finance ministers in the wee hours of the morning of 10 May: On the one hand, credits of up to 60 billion euros were to be given by the Commission within the framework of a “European Financial Stabilization Mechanism” (EFSM); on the other, credit guarantees by the euro states of up to 440 billion euros for a three-year “European Financial Stability Facility” (EFSF) with its seat in Luxembourg would be able to take out loans on the market with favorable terms and pass them on to crisis states. A little later, the IMF pledged a further 250 billion euros, so that there would now be up to 750 billion euros available to defend against speculation targeting euro countries susceptible to crises.

At the same time, the ECB began buying government and private debt of the weakening euro countries on the secondary market. This was intended not only to help reduce the refinancing costs of Greece, Ireland, Portugal, and Spain but also limit the threat to German and French banks that held substantial amounts of these countries’ bonds. The decision was made in the face of opposition from

<sup>89</sup> European Council: European Council meetings of 25 and 26 March 2010 in Brussels. Presidency Conclusions, EUCO 7/10.

<sup>90</sup> On this and the following, Kunstein and Wessels, “Währungskrise.”

<sup>91</sup> Report in Franz-Olivier Giesbert, *M. le Président. Scènes de la vie politique 2005–2011*, Paris: Flammarion, 2011, pp. 193.

German ECB council members Axel Weber and Jürgen Stark, who perceived it as a threat to the focus on stability. However, it served as a kind of first-aid measure to calm the markets, promoting confidence in the implementation of government decisions, a process that was per force somewhat protracted.<sup>92</sup>

After the danger of a financial wildfire within the euro area had been eliminated for the time being, a discussion began as to how the stability of the Eurozone could be secured over the long term. There would be intense wrangling over two ideas during the following months: Firstly, the idea of continuing the rescue fund and, secondly, that of increased access at the European level into governments and countries that wantonly disregarded the focus on stability. Merkel initially opposed both ideas with an eye toward monetary-policy orthodoxy and the mood in Germany. Realizing the catastrophic consequences of a severe reduction of the Eurozone—upward valuation that would put a damper on exports, the collapse of financial institutions that had long since been operating across Europe, enormous write-downs, along with lasting damage to the European idea—she was here following the urgings of Wolfgang Schäuble, who as finance minister of the Christian Democrat-Liberal coalition (since November 2009) was aiming at a consistent expansion of the monetary and economic union.

At a meeting with Sarkozy in the resort of Deauville on the coast of Normandy on 18 October, Merkel agreed to continue the rescue fund, with the additional provision that private creditors must also be included in the costs of any government bankruptcy in the future. At the same time, the two leaders reached agreement on sharper and quicker sanctions against governments that endangered the Community currency due to excessive debt levels. These were not however to be imposed automatically, as the chancellor and the European Commission had earlier demanded. The Commission was to have the right to require deposit payments from governments that were dragging their feet on reform; the decision to impose fines was to be retained by the Ecofin Council. Member states that were in ongoing violation of the stability pact could possibly have their voting rights in the Council taken away.<sup>93</sup>

The agreement between Sarkozy and Merkel ran into manifold criticism. Some argued that the communitization of risk went much too far, while others asserted that intervention into national budget sovereignty did not go far enough. Nevertheless, the European Council at its Brussels meeting of 28 and 29 October agreed in principle to a limited expansion of the Lisbon Treaty to create “a permanent crisis mechanism to safeguard the financial stability of the euro area

<sup>92</sup> See Martin Sedlmayr, “Europäische Zentralbank,” in: *Jahrbuch der europäischen Integration 2010*, pp. 95–106.

<sup>93</sup> Franco-German Declaration. Statement for the Franco-German-Russian Summit, Deauville, 18 Oct. 2010.

as a whole.”<sup>94</sup> In configuring it, however, Merkel had to make deletions in two respects: Firstly the idea of taking away voting rights was refused as being discriminatory; secondly, the participation of private creditors in financial assistance or debt reductions was left to individual cases. On 16 and 17 December, the European Council passed the draft of a corresponding amendment to the Lisbon Treaty. From July of 2013, a permanent “European Stability Mechanism” (ESM) would take action; and within its framework financial assistance could be given with “stringent requirements.”

Three months later, on 24 and 25 March 2011, there followed decisions on the financial configuration of the permanent rescue fund: It was to have 80 billion euros in basic capital that the euro countries would pay beginning in 2013, along with credit guarantees at a level of 620 billion and funds from the IMF of up to 250 billion. There were not however to be any common securities of the euro countries, the so-called “euro bonds” that Jean-Claude Juncker had been demanding as chairman of the Eurogroup of finance ministers as a means of lowering interest rates for and promoting growth in the crisis countries. Merkel argued that such common bonds could weaken the willingness of the crisis countries to implement reforms and cut spending; at a meeting in Freiburg on 10 December 2010, she found support from Sarkozy on this. In fact, the introduction of euro bonds would have meant a rise in interest rates not only in Germany but also in France, the Netherlands, and Finland.<sup>95</sup>

In regard to strengthening the Stability Pact, the heads of state and of government accepted a compromise at their meeting of 16 and 17 December, one that the members of the “task force” under Herman Van Rompuy had agreed upon back on 21 October: There were now to be automatic sanctions but only after a period of six months during which countries in violation could implement the necessary corrective measures, and sanctions would only follow if a majority of the Council did not vote against them. Also, the supervisory and sanction mechanism would in future be applied not only for preserving the threshold for new debt but also the upper limit for total indebtedness. Lastly, governments were to present their budget plans to the Commission and the Council, respectively, in the first half of the year so that their recommendations could be taken into account in the decision-making process in the parliaments.<sup>96</sup> Augmented with an expansion of the system of fines and supervision of macro-economic imbalances, this reform of

<sup>94</sup> European Council: meeting of the European Council of 28 and 29 October 2010 in Brussels, conclusions, EUCO 25/1/10.

<sup>95</sup> Legoll, *Sarkozy*, p. 195; Stark, *Politique internationale*, pp. 270–274.

<sup>96</sup> Rat der Europäischen Union: Abschlussbericht der Arbeitsgruppe, Brüssel, 21 Oct. 2010 (25.10).

the Growth and Stability Pact was passed by Parliament and by the Council of Ministers on 16 November 2011.<sup>97</sup>

Going beyond that, Merkel demanded in return for continuing the financial guarantees that there be a stronger obligation on the part of the member states to pursue economic-policy solidarity and to focus on competitiveness. At the Council meeting of 4 February 2011, she and Sarkozy together proposed a “Pact for Competitiveness” that called for incorporating a brake on debt in national constitutions, along with a ban on automatic wage adjustments based on the inflation rate, a harmonization of the retirement age, and an equalization of business taxes. These demands also met with manifold criticism; Juncker, for example, accused the chancellor of wanting to impose the German austerity model on the other member states. Merkel and Sarkozy, who had been somewhat contemptuously dubbed “Merkozy” due to their partnership, had to accept that the European Council on 24 and 25 March approved only a “Euro Plus Pact” that included the obligation “to implement in national law the budget provisions of the EU contained in the Stability and Growth Pact.” Decision-making on concrete measures for increasing competitiveness and convergence was to be reserved for annual meetings of the Council. Not all EU member states voted for the pact: Aside the seventeen euro states, only Bulgaria, Denmark, Latvia, Lithuania, Poland, and Romania made these commitments.<sup>98</sup>

Under the pressure of circumstances in the summer of 2011, Merkel acceded to Sarkozy’s demand for stronger economic governance of the Eurozone. After a meeting in Paris on 16 August, both leaders repeated their call for including a brake on indebtedness in national constitutions—this time limited to the seventeen euro countries, however; those national regulations were to follow within one year, that is, by the summer of 2012. At the same time, the two advocated establishment of “genuine economic governance” of the Eurozone in the form of a European Council of the Seventeen. At least twice per year, the heads of state and of government of the euro countries would assess measures for adhering to the Stability Pact and for averting crises.<sup>99</sup> Several weeks later, in light of the further need of financial resources for the rescue fund, Sarkozy gave up his opposition to automatic imposition of sanctions and thereby also his opposition to strengthening the supranational level of crisis management.

<sup>97</sup> In the form of five regulations and a guideline (the so-called “Sixpack”), printed in *Amtsblatt der EU*, Nr. L 306, 23 Nov. 2011, pp. 1–47.

<sup>98</sup> European Council: European Council meetings of 24 and 25 March 2011 in Brussels. Presidency Conclusions, EUCO 10/1/11.

<sup>99</sup> See the joint Franco-German letter to EU President Herman Van Rompuy, 16 Aug. 2011, published in *Presse- und Informationsamt der Bundesregierung*, 17 Aug. 2011.

The joint threat by Merkel and Sarkozy to seek treaty amendments with only the seventeen euro states<sup>100</sup> led to a willingness on the part of all EU states to accept a stronger commitment to stability in the end—all states except Great Britain, as it turned out at the Council meeting of 8 and 9 December 2011. After the electoral defeat of Gordon Brown in May of 2010, David Cameron had formed a coalition government of Conservatives and Liberal Democrats. With an eye toward the growing Euro-skepticism in his party, Cameron insisted that in return for strengthening the Stability Pact there also be a loosening of the commitments in social and employment policy. After failing to push this through, he rejected further amendment of the Lisbon Treaty.

The other twenty-six heads of state and of government thereupon agreed to an intergovernmental “fiscal contract.” This contained, firstly, the stipulation that sanctions automatically be imposed on states with excessive deficits as soon as the Commission had determined that permissible levels had been breached; deviation from this automatic imposition of sanctions would only be possible if a qualified majority of the Council opposed sanctions. Secondly, participants in the fiscal contract would pledge to hold their annual structural budget deficit below .5 percent of GDP (countries with a total indebtedness of significantly less than sixty percent of GDP would pledge to keep the level under one percent). This was “preferably” to be anchored in national law but there was no compulsion for it to be at the constitutional level. If a state did not adhere to the commitment to introduce this brake on debt and if charges were filed, it could be punished with fines of up to .1 percent of GDP by the European Court. This fiscal contract was passed on 2 March 2012 and came into effect on 1 January 2013. Along with Britain, the Czech Republic opted not to participate at the last minute.<sup>101</sup>

Meanwhile, Merkel’s repeated hesitation as well as all-too-draconian austerity measures, and the unclear signals coming from the half-hearted decisions of the heads of state and of government had led to a situation in which the Greek crisis worsened and other countries also ended up in refinancing difficulties. In the autumn of 2010, the threatened collapse of three of the four national banks in Ireland compelled the Irish government to be the first to seek assistance from the temporary euro rescue fund. On 28 November, loans of altogether 85 billion euros for Ireland were approved. In the spring of 2011, Portugal had to appeal for help after the failure of a consolidation package in parliament had led to a vola-

<sup>100</sup> *Frankfurter Allgemeine Zeitung*, 6 Dec. 2011.

<sup>101</sup> Cf. Friedrich Heineman, Marc-Daniel Moessinger, and Steffen Osterloh, “Feigenblatt oder fiskalische Zeitenwende? Zur potenziellen Wirksamkeit des Fiskalvertrags,” in: *Integration* 35 (2012), pp. 167–182.

tile climb in interest rates for government loans. On 17 May, up to seventy-eight billion euros were granted in support.

Further assistance payments were necessary for Greece after consolidation measures had led to a severe increase in unemployment along with a drop in consumption and tax receipts. The Germans (together with the Dutch and the Finns) initially refused to grant the aid. Only when in the early summer of 2011 the bankruptcy of the Greek government once again became more likely and speculators were already eyeing Spain, Italy, and Belgium did Merkel find herself willing to support new assistance. In consideration of the pressure of public opinion in Germany and the opposition of her own government coalition, she did however insist once again that private creditors participate in the assistance action. She was able to push this through in this individual concrete case: After the banks had agreed to give up twenty-one percent of the amount they were owed and had granted longer repayment terms for Greece (which amounted to a loss of some fifty billion euros) the heads of state and of government of the Eurozone on 21 July approved—after six hours of tough negotiations—a package of longer repayment terms, lower interest rates, purchases of debt, as well as guarantees for the remaining claims of private investors amounting to a total of 109 billion euros. Beyond this, the term of the EFSF guarantees for Greek loans was extended (from 7.5 to thirty years) and the interest rate on EFSF loans was lowered (from 4.5 to approximately 3.5 percent). The EFSF itself was accorded the possibility of buying the government paper of ailing euro countries and taking preventative action to ward off an emergency in a euro country.<sup>102</sup>

Three months later, it became clear that this package of measures would not be sufficient to give Greece a prospect of bringing its debt under control. Merkel now insisted on an expansion of the sacrifice by private investors from twenty-one to fifty percent. At the same time, the guarantees for the remaining private debt were raised to 30 billion euros. The volume of the second government assistance package thereby rose from 109 to 130 billion euros. It was enjoined upon the banks to raise their core capital ratio by the middle of 2012 to nine percent so that they could deal with the losses from this debt reduction. However, there was not to be a doubling or even tripling of the EFSF credit guarantees, as Sarkozy had called for, with the critical situation in Italy and Spain in mind. Nevertheless, EFSF guarantees could from now on be employed to collateralize government bonds in crisis countries preferentially at twenty or twenty-five percent.<sup>103</sup>

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**102** European Council: Statement by the heads of state or government of the euro area and EU institutions, Brussels, 21 July 2001.

**103** Euro Summit statement, 26 Oct. 2011.



Among the measures approved at a meeting of the heads of state and of government of the euro countries during the night of 26–27 October was also the expansion of the supervision of Greek reform measures by the “Troika” consisting of the EU Commission, the EFSF, and the IMF; the commitment to further reform efforts; and a call for the Greek opposition to support this commitment. When opposition leader Antonis Samaras rejected that and when similar views manifested themselves within the ruling PASOK, Prime Minister Papandreou on 31 October announced a referendum on the decisions by the summit—to the dismay of all the euro partners. Under pressure from them, he had to retract that announcement on 4 November and yield to a transition government under former ECB Vice President Loukas Papademos. This government accepted the reform package, whose details were finalized in negotiations by the spring of 2012. It took another six months full of nervous tension (until the formation of a government after the elections of 17 June 2012) before a parliamentary majority emerged that was serious about implementing the package.

The government made up of conservatives, PASOK, and the Democratic Left with Samaras as the new prime minister did however demand two additional years for the agreed-upon debt reduction: Less-drastic cuts were to increase the chances for a return to economic growth. The finance ministers of the Eurozone could not easily reject that even if it would of necessity lead to higher burdens for creditors. IMF head Christine Lagarde therefore demanded that after the private debt write-off there also be a partial write-off of government debt. The German finance minister opposed this, once again keeping in mind the voters and the critics of assistance for Greece in the government coalition. After long wrangling, the euro finance ministers agreed on 26 November 2012 to finance a modified assistance package by means of interest-rate reductions, forbearances, sacrifice of profits from interest on bonds that the ECB had issued, and use of credits for buying back bonds from private creditors at thirty-five percent of face value. Further, the prospect of a debt reduction for 2014 was *de facto* held out—under the condition that Greece shows a clear budget surplus (not including debt service) up to that time and that consequently no further loans would be necessary.<sup>104</sup>

The modification of the assistance to Greece did not however mean that the danger of infection in other weak euro countries had been eliminated. Investors were less and less willing to make long-term investments in Portugal, Spain, or Italy. As a consequence, it was not only interest rates for government loans that rose (exacerbated by the private debt cuts in Greece) but also rates for private loans. Reform measures aimed at reducing structural deficits in these countries also slowed growth and further increased the need for interim financing. The call

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**104** Eurogroup statement on Greece, 27 Nov. 2012.

for communitizing the debts consequently became all the louder, and Merkel countered with the demand that European access to national budgets must also become even stronger. Views collided at an informal working lunch in Brussels on 23 May 2012 to which Van Rompuy had invited all twenty-seven heads of state and of government. The Council president, along with Commission President Barroso, Eurogroup head Juncker, and new ECB President Mario Draghi were given the task of presenting practicable proposals for the long-term stabilization of the euro and the EU, to be submitted by the next Council meeting in late June.

In its report of 26 June, this group of four first of all proposed the creation of a European bank union, which would include European supervision of banks with right of access to national banks along with a common deposit guarantee system and a liquidation fund for ailing banks. The report also advocated “a qualitative move towards a fiscal union”: Right of access to national budgets was to open a pathway to a collectivization of debts. Nothing was said as to how any of this was to look; the four only noted that it would be possible to consider various forms of fiscal solidarity and that a fully-developed fiscal union, which would perhaps exist in ten years, would presuppose the creation of a kind of European finance ministry to administer a European budget. The European Parliament and the national parliaments would naturally have to be wholly included in the process of deciding on this budget.<sup>105</sup>

In their meeting of 28 and 29 June, the heads of state and of government accepted Merkel’s call to “consider as a matter of urgency at the end of 2012” the setting up of European bank supervision. In return, the chancellor declared that she was in agreement that the ESM (which according to a Council decision of December 2011 was to come into effect in the current year) be given the authority to recapitalize ailing banks directly “when an effective supervisory mechanism is established.”<sup>106</sup> There was once again contentious discussion of further steps toward a bank and fiscal union. The heads of state and of government were able to commit themselves to the principle “of taking the necessary measures in order to secure financial stability, competitiveness, and prosperity in Europe.” Van Rompuy was commissioned, in collaboration with the three other presidents and in close consultation with the governments, to develop a “specific timetable with

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**105** European Council. The President: Towards a Genuine Economic and Monetary Union. Report by the President of the European Council Herman Van Rompuy, Brussels, 26 June 2012, EUCO 120/12.

**106** Euro Area Summit Statement, 29 June 2012.

specification of dates” for the necessary decisions and treaty amendments by the end of the year.<sup>107</sup>

The progress toward deepening the monetary union that was contained in these decisions was however somewhat obscured: Italy’s Prime Minister Mario Monti, who after Berlusconi’s fall in November of 2011 undertook a serious program to improve his country’s budget situation, employed an adroit maneuver to get the chancellor to agree to the issuing of bank loans and the purchase of ailing government bonds by the ESM even without negotiating additional requirements: He made his agreement to a new growth pact, which the oppositional German SPD wanted as the prerequisite for ratification of the fiscal package and the ESM, dependent on Merkel’s acceptance of this easing of access to ESM financial assistance. Suddenly, the chancellor stood as the loser *vis-à-vis* Monti and new French President François Hollande, who had advocated the growth pact: To his own public, Monti could present himself as the victor—the person who had at last wrestled from the iron chancellor an escape from the austerity trap.

The ECB Council decided on 6 September to buy up the government bonds of ailing euro countries on the secondary market once again. This was because the then-current ESM financial framework was not sufficient to supply funds to Ireland, Portugal, and Greece along with Spain and Italy, and because a majority in the Bundestag for providing more funds was harder to find than ever after the humiliation of Merkel. In presenting this decision, ECB President Draghi declared that “there are no *ex-ante* limits on the amount” of such purchases. However, they were only to occur under the provision that the affected country submit itself to an ESM regime and that it adhere to agreed-upon reform restrictions stemming from it. This commitment did not seem secure enough to *Bundesbank* President Jens Weidmann and so, like his predecessor Axel Weber at the time of the first purchase action in May of 2010, he voted against the decision.<sup>108</sup>

It was in fact the case that the ECB decision, in connection with the ESM’s coming into force after a ruling by the German Constitutional Court on 12 September, did allow interest rates to drop in the crisis countries; the first investors then began putting new money back into them. This removed much of the pressure to act that had been on the leaders at the European level during the spring, and as a result, the differing priorities once again emerged more clearly. In Berlin, The Hague, and Helsinki, the agreement at the June summit was now interpreted to mean that ESM assistance for ailing banks would only apply to future crisis cases. Conversely, there was the assumption in Paris and the southern capitals that the

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**107** European Council: meeting of the European Council of 13 and 14 December 2012, conclusions, EUCO 205/12.

**108** ECB: Press conference and press release, Frankfurt am Main 6 Sept. 2012.

current crises would of course be included, especially the Spanish banking crisis; and there was thus a desire that the bank union be realized on 1 January 2013. On the other hand, Merkel and Schäuble urged that there be quick decisions to strengthen the right of access to national budgets—in the best case, the summoning of a constitutional convention with a precise mandate and narrow timeframe as early as December; François Hollande, for his part, saw no need of that.

The antagonisms became evident in the run-up to the Council meeting of 18 and 19 October. Seconded by Merkel, Schäuble went public with a proposal that the EU monetary commissioners be empowered to reject national budgets that violated the agreements on stability policy. Over against that, Hollande maintained that the priority was to decide on the banking union, not the fiscal union. At the meeting, it was thus only possible to reach an understanding that the decision for the creation of European bank oversight would be made before the end of the year. During the night of 12 to 13 December, the finance ministers of the Eurogroup agreed on the details of this “Single Supervisory Mechanism” (SSM): It was to begin on 1 March 2014, be located at the ECB, and be responsible only for the large, systemically-relevant banks (thus not for other banks of various kinds that had rejected a collectivization of their liability risks). The ECB was to have authority to examine in advance those banks that were to be refinanced by the ESM. This Single Supervisory Mechanism started on 1 November 2014. As agreed by the finance ministers and the European Parliament in March 2014 a “Bank Recovery and Resolution Mechanism” (BRRM) was to start in January 2015 and be completed eight years later on.

The introduction of “an increasing degree of common decision-making on national budgets” and a European budget for managing crises were announced for the period “after 2014” in the concluding report that the group of four around Van Rompuy presented on 5 December 2012. This meant that decisions would likely be made only after the European elections of 2014.<sup>109</sup> After the Council meeting of 13 and 14 December 2012, it remained open however as to whether any of it would actually come about. The heads of state and of government had only agreed that the definition of “old burdens,” the creation of regulations on liquidating ailing banks, and the organization of the deposit security system would occur by the middle of 2013. Van Rompuy was given the task, in cooperation with Barroso, of determining by that time to what extent it would be possible to implement the chancellor’s proposal to conclude treaties for rehabilitation with indi-

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**109** Herman Van Rompuy in close collaboration with José Manuel Barroso, Jean-Claude Juncker, and Mario Draghi, *Towards a Genuine Economic and Monetary Union*, 5 Dec. 2012.

vidual member states for which the common rehabilitation funds would then be available.<sup>110</sup>

The danger that the European Union would break apart, a danger that had arisen from the mutual rejection of solidarity—rejection of painful structural reforms in the crisis countries and rejection of support for those reforms by the economic draft horses, especially the Germans, who without intending it had risen to be the leading economic power—was a danger that thus seemed to have been warded off at the end of 2012. During a difficult period of adjustment, the Union had equipped itself with instruments by which it essentially seemed possible to overcome the government debt crisis. No later than the ruling of the German Constitutional Court that allowed German participation in the fiscal pact and the ESM, the opponents of a common strategy to deal with the crisis had everywhere ended up on the defensive. It admittedly remained an open question as to how much strengthening of the European level would be achievable in the process of resolving the crisis. And it also remained an open question as to how high a price each individual citizen of the Union and each member country would have to pay for overcoming the crisis.

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**110** European Council: meeting of the European Council of 13 and 14 December 2012, conclusions, EUCO 205/12.