

## ABSTRACTS

Udo Diedrichs and Wolfgang Wessels

### **The European Union in the Constitutional Trap? Analysis, Developments and Options**

With the failure of the Treaty Establishing a Constitution for Europe in the French and Dutch referendums, the European Union has manoeuvred itself into a serious crisis. The current 'period of reflection' prescribed by the European Council should, therefore, now be utilised to find ways out of this crisis and discuss steps towards a solution. On a fundamental level, this raises the question whether the member states should maintain their hold on the Constitutional Treaty or simply give it up. Either of these basic decisions opens up further long-term strategic considerations. At the end of the day, however, the chances for survival of the present Constitutional Treaty can be viewed with some scepticism. There is no king's road leading out of the crisis. Thus, the European Union should at first aim for pragmatic interim solutions to enhance its capacity to act and legitimacy without necessarily giving up on its longer-term visions and objectives.

Daniel Thym

### **‚Soft Constitutionalisation‘: Options for Implementing specific Constitutional Treaty Reform without Treaty Revision**

The history of European integration is shaped more by gradual reform than grand designs. The current crisis in ratifying the Constitutional Treaty could generate a sense of nostalgia for the past virtues of this approach. In the ongoing debate on possible ways out of the ratification crisis, however, one idea is increasingly gaining ground: that of implementing some of the constitutional steps to reform on the basis of the existing treaties i.e. in their ‚Nice‘ incarnation. This contribution aims to examine such options for ‚soft constitutionalisation‘. In doing so, it first looks at the legal framework of soft constitutionalisation on the contractual basis of the status quo. A window of opportunity for reform presents itself here, especially in the degree of freedom granted to the various organs in shaping the agenda as well as the means for shaping inter-institutional co-operation. In comparison, the existing treaties only afford limited scope in their regulation and dynamic interpretation. However, by taking a closer look at the scope for reform of the Union's external action following the instigation of the Constitutional Treaty, the limits of soft constitutionalisation become apparent. It may at first appear to offer a pragmatic way forward by introducing quick reform on individual projects, primarily through administrative arrangements, but the grand design of the Union Minister for Foreign Affairs and the External Action Service remain closed to soft constitutionalisation. The only way of achieving this is by changing the treaties – either by adoption of the Constitutional Treaty itself or by smaller treaty revisions at some later date.

Peter Schlotter

### **The European Union as a Foreign Policy Actor? The Consistency of the EU's Mediterranean Policy and the Role of the Commission**

In the literature on the Euro-Mediterranean Partnership (EMP), the prevailing opinion seems to be that the European Union's Mediterranean Policy is plagued by a lack of coherence due to institutional deficits and the dominance of member states. This view does not fit with the facts. In the run up to the Barcelona Process as well as in its implementation, the European Commission consistently proved itself to be the ‚policy entrepreneur‘ that, within the decisional framework of the member states, decisively shaped the content of Mediterranean policy. The Commission's activities are a key condition for the Union's conduct as a coherent foreign policy actor. They

are particularly effective in the policy areas of EMP, in which it is not so much a question of ‚high politics‘ as long-term strategy as well as the daily routine of implantation.

William Wallace

### **The Triangle Germany – France – Great Britain: Europe's central Problem?**

Does Germany, Europe's central power, and its cooperation with France and Great Britain become Europe's central problem? Together with the paralysis of the French government and the incoherence of Italian politics this could possibly block a constructive debate across Europe. Meanwhile, deep ambiguities of the British European policy also persist. Even though underneath the surface remarkable changes have taken place, it is very difficult to convince the sceptical British public to come to terms with the underlying logic of European integration. An efficient British contribution to the traditional Franco-German engine is additionally hindered by complicated personal relations among the leaders of Europe's largest states. In this scenery, a new German government would need to explain key elements of its domestic, foreign and European policy, keeping in mind the implications their choices have for their neighbours. Europe needs a strong German economy, and a confident German government – and fears that it may have neither for the next year, possibly for much longer.

Daniel Göler and Hartmut Marhold

### **The Future of the Constitution – Considerations at the Outset of the Reflection Period**

This contribution asks what added value the Constitutional Treaty can make to managing the current crisis in the European Union. Inasmuch as the majority of Dutch and French citizens did not primarily reject the *content* of the Constitution, it is recommended that the deeper internal and European problems should first be addressed. Here, the rationale underlying the Constitutional Treaty can provide us with valuable insights, for the current problems closely parallel those encountered during the process of constitutionalisation. On this analysis, the second step would then be to develop options towards a solution. Here, the Constitutional Treaty also takes on a crucial role even if it were not eventually to come into effect. For by its mere existence, it forces the member states to tackle the actual problems underlying the crisis – a fact that should not be underestimated – rather than merely sit them out.

Christoph Heusgen

### **After the failed referendums: What will become of the Union Minister for Foreign Affairs and the European External Action Service?**

Ever since the Amsterdam Treaty came into force in 1999, the scope of the European Union's Common Foreign and Security Policy (CFSP) activities has grown considerably. Although some of the provisions in the Constitutional Treaty that would have improved the CFSP's capabilities cannot now be implemented – as a result of the failed referendums in France and the Netherlands – improving the consistency and efficacy of the Union's external action is nevertheless necessary and can be achieved on the basis of the present treaties. The key to this lies above all in improving inter-institutional co-operation. Beyond this, the European Union's internal unity and its ability to co-operate with reliable partners are necessary conditions for averting an impasse in the CFSP's evolution and forestalling the frustration of renewed ‚Euro-sclerosis‘.

*Übersetzung aus dem Deutschen von Graham Holliday.*