

ABSTRACTS

Peter-Christian Müller-Graff

The Future of the Topos of a European Constitution and the Primary Law after the German Council Presidency

As an important achievement of the German Council Presidency, a detailed mandate for a future Intergovernmental Conference (IGC) was agreed upon and submitted in the early hours of June 23, 2007. The IGC will have the task to work out a Reform Treaty that will amend the existing treaties. The mandate has a high degree of legal specificity. In this article, the author analyses the content of the mandate from a jurisprudential perspective, assesses potential room for interpretation and specification of the mandate and discusses the future of the *topos* of a European Constitution.

Joachim Schild

Sarkozy's EU Policy: The Increasing Weight of Domestic Policy

The recent presidential elections ended the paralysis in France's EU policy, which resulted from the French „no“ to the Treaty on a Constitution for Europe (TCE). The new president, Nicolas Sarkozy, made clear from the first day of his term that he would seek a leading role in the European Union, and he was successful in achieving this during the recent treaty reform negotiations. However, the handling of European issues in the presidential election campaign and the initial positions taken immediately following make clear the critical importance of domestic policy considerations in shaping French EU policy over the next few years. The potential for conflict could become especially high if the new president slows or blocks the opening of the European market, gives in to protectionist reflexes in external trade policy or comes out as a critic of the stability-oriented monetary policy of the European Central Bank, all in order to appease anti-liberal or anti-globalisation popular opinions in his country. As a result of the constitutional referendum of 2005 and the election of Sarkozy, France's EU policy stands much more in the shadow of domestic policy than it did in the past. In the coming years, Sarkozy's France, as a partner on the European stage, is likely to be just as self-confident as awkward.

Timo Goosmann

The Berlin Declaration – Document of European Identity or Pragmatic Step towards the Reform Treaty?

On 25 March 2007, the 50th anniversary of the Treaties of Rome, German Chancellor Angela Merkel for the EU presidency, José Manuel Barroso for the European Commission and Hans-Gert Pöttering for the European Parliament signed the so-called ‚Berlin Declaration‘, a short document in which the merits of European integration, common values, current challenges and the future shape of the EU were set forth. Despite the substantive ambiguity of many passages, the agreement on the wording of the declaration can be interpreted as an important step towards the reform treaty, especially as the declaration in many ways sent strong signals of unity and a new confidence. However, given the closed-door consultations leading up to the declaration, it remains to be seen whether the goals of transparency, democracy, dialogue and discussion, which were highlighted by the constitutional convention and the European Commission's Plan D, will be remembered on the path to the institutional reform of the EU.

Raphael Sauter and Katherina Grashof

New Impetus for a European Energy Policy? – Results of the Spring Summit 2007

A significant impulse for a common European energy policy was expected from the climate and energy summit of the European Council in March 2007. Drawing upon the thematic areas of the action plan passed at the summit, as well as existing EU initiatives, legislation and interests of important actors, this article analyses the question of whether this goal could be achieved. The authors come to the conclusion that the goals agreed upon bear indeed the potential for progress on the path to a European energy policy, but that many critical questions were left un-addressed, which could prove pivotal for the achievement of the goals set forth. This would concern both the coherence of the energy policy goals of sustainability, competition and supply security within the EU, and the relationship between the internal and external dimensions of European energy policy.

Friedrich Heinemann and Carsten Wendt

Harmonisation of Tax Systems in the Area of Company Taxation – Status Quo and Perspectives

Increasing economic integration in the internal market has led to an advancing integration of businesses and the perception of the EU as a „home market“ of companies rather than individual member states. At the same time, each member state has its own separate tax system. Nevertheless, the need for a certain degree of coordination of tax systems has already been recognized. The fundamental freedoms of the EC Tax Treaty, the Code of Conduct, peer pressure and the initiatives of the European Commission have been important forces in this context. In 2001 the European Commission launched a new proposal aimed at providing companies with a common consolidated tax base for their EU-wide activities. This concept has the potential to resolve many obstacles that result from the coexistence of 27 separate national tax systems. On the other hand, member states would retain their right to set company tax rates. A proposal for a directive is set to be released by the end of 2008. However, much work still needs to be done and many technical issues on this concept still need to be resolved.

Michael Niemeier

The Future of Europol

With the establishment of Europol in the 1990s, another effective crime fighting instrument at European level was created: a European platform for exchange of information, which served to prevent and investigate serious cross-border crime and coordinate relevant national prosecution and law enforcement measures. The criminal prosecution authorities of European Union member states and thus also Europol are currently confronted with formidable challenges, which lie not only in the area of some criminal phenomena but also concern the institutional security architecture of a European Union of now 27 member states in general. Both of these challenges, as well as some already applied perspectives – for example in the draft constitutional treaty – make clear that the question of whether Europol will, in the future, enjoy an expanded role in the area of freedom, security and justice can only be answered with a resounding „yes“. Insistence on the status quo, or even a fall back from what has already been achieved, would be fundamentally inconsistent with the commitment of all member states to ensure the optimal security of their citizens.

Jürgen Elvert

Orientations on the Treaties of Rome – Actors and Deliberations in the German Federal Government, 1955

The conception prevailing for a long time among historians is that, after the failure of the project of a European Defense Community, it was only in the Benelux countries that there was a clear recognition of the necessity of continuing the integration process, leading it from the partial integration of the steel sector to complete economic integration as a precursor to deepened political integration of the ECSC-states. In this essay, this view is modified at the very least. It is demonstrated that there were plans on the part of the German federal government on the future of the integration process which actually preceded the conceptions in the Benelux countries, but broadly corresponded to them. These deliberations were conducted in the federal foreign ministry under the leadership of Walter Hallstein, who was able to rely on the support of Konrad Adenauer, the German chancellor, and Hans von der Groeben of the federal economics ministry. While for Hallstein the political dimension of the integration process was of primary importance, for Hans von der Groeben, the expansion of the economically illogical partial integration to a complete internal market carried top priority. He thus stood in clear contrast to Economics Minister Erhard, who was a key opponent of supranational European integration, interested instead in the economic performance of a worldwide free-trade system organised by the OEEC or GATT.

Wilfried Loth

Guy Mollet and the Origins of the Treaties of Rome, 1956/1957

The Treaties of Rome were the result of successful crisis management by French Prime Minister Guy Mollet. In order to secure a majority in the French National Assembly for any new European treaty, Mollet first tried to negotiate only the Atomic Energy Community. When confronted with a German *junktim*, binding the Atomic Energy Community to the Economic Community, he insisted on a general agreement on French social standards, which led to an impasse in the negotiations in October 1956. It was only after the retreat from the Suez adventure on 6 November, compelled by the U.S. government, that Mollet accepted economic integration without binding assurances for social standards. By presenting the two Communities as means against further American humiliations, he was then also able to secure a majority for the risky Economic Community.

Hanns Jürgen Küsters

The Impacts of the Treaties of Rome on European Integration – Summing Up after 50 Years

For the European integration process the signing of the Treaties of Rome on 25 March 1957 represented a quantum leap. The EEC Treaty with its core elements of single market and customs union constituted a true international innovation and established the foundations for the supranational pillar of the European Union that still holds today. The Treaties contained an action programme which produced integrative effects for Community development, but above all it was the strict, institutionally anchored trade liberalisation that led to peace and political stabilisation in Europe. Deepening and widening of the Community were, from the beginning, parallel tasks of progressive political integration. Given the difficult starting situation in the 1950s, the successive development of Community policies has proved a tedious, but correct, path to take.

Andrew Duff

The Mandate of the Intergovernmental Conference – The Second Chance

The major conclusion of the June Summit in Brussels in 2007 was to charge a new Intergovernmental Conference (IGC) with the task of salvaging as much as possible of the constitutional treaty of 2004. According to the mandate of the European Council, a Reform Treaty is to amend the existing treaties. In this article, Andrew Duff, British member of the European Parliament and one of the representatives of the European Parliament in the new IGC, presents core issues of the mandate, such as the Charter of Fundamental Rights, foreign policy, the role of national parliaments with regard to the principle of subsidiarity, the voting system in the Council as well as the distribution of competences and powers between the Union and the member states. He also mentions that the growing constitutional authority of the European Parliament will be now acknowledged. The participants of the new IGC will be under substantial pressure to succeed, as a second failure would be a catastrophe for all Europe.

Vladimir Handl

The German EU-Presidency from a Czech Point of View

The German EU-Presidency had, in the first half of 2007, the difficult task to re-launch the constitutional process of the Union, which, at first, looked like a mission impossible. In this article, the author discusses strengths and weaknesses of the German Presidency from a Czech point of view and sketches their perception in the Czech Republic which belongs to new member states that have not yet established a firm consensus on EU policy.

Übersetzungen aus dem Deutschen von William L. Metzger und Matti Roscher

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