



**CENTRE FOR EUROPEAN REFORM**

*briefing note*

# THE AUSTRIAN EU PRESIDENCY AND THE FUTURE OF THE CONSTITUTIONAL TREATY

*By Katinka Barysch*

- ★ Austria's priorities for its EU presidency are: the future of the EU constitution; jobs and growth; and EU enlargement to the Balkans. But much of the presidency's time will be taken up by more pressing issues, such as getting the European Parliament to pass the EU budget or dealing with Iran and bird flu.
- ★ Austrians are the most eurosceptic people in the EU. With elections coming up in the autumn, the government of Wolfgang Schüssel will not have much room for manoeuvre during its presidency.
- ★ Schüssel's idea – backed by Germany and the European Parliament – of reviving the EU constitution is unrealistic. EU countries will waste time and energy on a renewed institutional debate at a time when they should be focusing on economic reform, the EU neighbourhood and global issues.

## THE PRESIDENCY: PRIORITIES AND AGENDA

Austrians heaved a sigh of relief when the UK presidency brokered a last-minute deal on the EU budget in December 2005. The Austrian government hoped that the agreement would free its hands to focus on more rewarding issues during its presidency. However, the European Parliament has rejected the December deal so Austria will have to find a new compromise. Other pressing issues that will preoccupy the presidency are Iran's nuclear ambitions, energy security, bird flu and Belarus. The presidency's own priorities are rather vague, namely: restoring trust in the EU, reviving the European economy and giving new momentum to the enlargement process. Since these are all longer term issues, the presidency has already played down expectations that it would produce concrete results.

## Debate on the future of Europe

The EU decided on a 'period of reflection' after Dutch and French voters rejected the EU constitutional treaty in mid-2005. Austria has promised to have a 'roadmap' in place in time for the EU's June summit that would give some idea of where the EU should go from here. However, the EU is deeply divided over whether it should revive the treaty, and if so, when and how (see below). Since there is no political agreement on whether the ratification process should continue, the roadmap may not amount to much more than a list of options. Although Austria's parliament has already ratified the EU constitution, public support for the document stands at less than 50 per cent. So Schüssel may not want to invest too much political capital in reviving the treaty. Any concrete steps will probably have to wait until the German EU presidency in the first half of 2007.

Meanwhile, Austria wants to use its presidency to promote a wider debate on how to restore trust in, and support for, the EU among the people of Europe. At the end of January, the presidency kicks off with a conference on 'The sound of Europe' which will discuss questions of European identity (or identities). This will be followed in April by a conference on subsidiarity – a pet theme for Austrian politicians who often complain that the EU is assuming too many decision-making powers. These high-level events – though laudable – are unlikely to produce more than well-meaning declarations.

### **Foreign policy and enlargement**

The EU faces a number of pressing foreign policy issues in the first half of 2006. Negotiations between Tehran and the EU-3 (Germany, France and the UK) on Iran's nuclear programme have stalled. The Europeans have signalled their willingness to transfer the issue to the United Nation Security Council, following an emergency meeting of the IAEA in early February. Since Austria is not a member of the EU-3 or the UN Security Council, its role in seeking a solution to the stand-off is likely to be limited. Another pressing issue is energy security, following Russia's decision to turn off the gas tap to Ukraine in January. The Commission will release a 'green paper' on EU energy security some time in the spring, and Austria is planning a conference on 'Energy paths: horizon 2050' in mid-March. However, Austria may find itself excluded from some key discussions on energy security that will take place in the G8 under Russia's presidency.

Enlargement is a rather curious priority for the Austrian presidency. Austrians are the least enthusiastic about enlargement among the EU-25: only 29 per cent support any further expansion. But while many Austrian politicians, and 90 per cent of the population, are against Turkey joining the Union, there has traditionally been strong support for EU enlargement to the Balkans – a region with which Austria has strong historical, cultural and business links. In October 2005, Austria appeared to be trying to block the start of Turkish accession talks – unless the EU agreed simultaneously to start negotiating with Croatia (a charge consistently denied by the Austrian and Croatian governments). Given the contentious nature of enlargement in his home country, Schüssel may welcome the fact that there are few pressing enlargement issues during 2006. The only big decision is whether Bulgaria and Romania will join the EU in 2007 as planned, or one year later in January 2008. The Commission will issue an assessment on these countries' preparedness in mid-May, on the basis of which EU governments will make a decision by July at the latest.

Other accession processes are likely to stay on the backburner during the first half of 2006. Austria may be unhappy about the start of Turkish accession negotiations, but it is unlikely to block the 'screening' of Turkish laws (for their compatibility with the EU *acquis*) or the start of talks on uncontroversial 'chapters' such as culture. Croatia's accession process is in a similarly technical phase, although it is likely to proceed much faster. Macedonia only gained official 'candidate' status in December, and the start of negotiations is still some time off. Talks on stabilisation and association agreements with Bosnia & Herzegovina and Serbia-Montenegro are unlikely to make much headway. Negotiations about the 'final status' of Kosovo vis-à-vis Serbia are getting under way in early 2006, and Montenegro is planning a referendum on independence from Serbia, probably in April.

Of more immediate concern for the EU will be developments in its eastern neighbourhood. A presidential election will take place in Belarus on March 19<sup>th</sup>, and a parliamentary one in Ukraine one week later. Russia is likely to accept the re-election of Belarus' incumbent president Alexander Lukashenka, while the EU will protest against widespread violations of democratic standards. Similarly, the Ukrainian election could lead to tensions in EU-Russia relations should Moscow once again seek to influence the result. Any further deterioration of EU-Russia relations would be an embarrassment for Russia at a time when its G8 presidency moves it into the global spotlight. Nor would it bode well for the next EU-Russia summit in May, which will struggle with the question of whether and how to replace the EU-Russia partnership and co-operation agreement.

### **Jobs and competitiveness**

Austria says it wants to continue the debate about 'European economic and social models' that started in 2005. Austria thinks it has an economic model that can rival the Scandinavian one in terms of attractiveness. The country has managed to combine flexible labour markets and low unemployment with high income levels and solid social protection. So unlike some EU laggards, Austria is looking forward to the EU's spring council in March. Then, EU leaders will for the first time discuss the national 'roadmaps for reform' that they promised in 2005 to revive the lacklustre Lisbon reform process. With growth picking up in the eurozone and the new German government pushing through at least some structural reforms, the mood at the spring council should be somewhat less gloomy than in previous years. However, little reform progress can be expected in Italy and France ahead of their elections in 2006 and 2007, respectively.

Unlike Tony Blair, who pursued mainly a liberalising agenda, Austria will put more emphasis on Europe's social dimension. In his January speech to the European Parliament, Schüssel promised a "determined fight against social dumping". This implies that he will not back the European Parliament's current, rather liberal draft of the 'services directive', which includes the contentious 'country of origin' principle. Austria has promised to give trade unions a greater say in the debate on services market liberalisation. The services directive is due for a second reading in the European Parliament in February before the Commission prepares its new draft. A final agreement looks unlikely during the Austrian presidency. Similarly, the 'working time directive' could become a battleground for more liberal versus more socially orientated views. Austria wants an end to the UK's opt-out from the 48-hour limit on weekly working time. But the UK is confident that it will be able to assemble a blocking minority in the Council of Ministers.

### **Other issues: budget, JHA, workers**

The EU's new 'financial framework' for 2007-2013 was the biggest headache for the British presidency, so Austria was hoping that the December budget deal would put an end to the wrangling. However, on January 17<sup>th</sup> the European Parliament overwhelmingly rejected the compromise worked out among the EU leaders in December. MEPs criticised the size of the budget (they had originally wanted €100 billion more than the €862 billion agreed in December) and the allocation of the money, with 43 per cent earmarked for the common agricultural policy (CAP). Only 8 per cent is allocated for R&D, around 1 per cent for internal security and 6 per cent for foreign policy. EU governments will be in no mood to put up additional funds. They reached a deal only after Britain agreed to reduce its rebate and Angela Merkel gave €500 million from Germany's allocation to Poland. Moreover, there is little room for shifting around individual spending items, since the largest chunk – the CAP – is fixed until 2013 through a deal struck in 2002. So the only way for the EU to reach a compromise by the May target date is for the Parliament to pass the budget with only minor spending re-allocations, perhaps in return for a bigger say in the forthcoming spending review in 2008-09. The spending review will also look at Austria's idea – supported by Germany and the European Parliament – to finance at least part of the budget through an 'EU tax' on short-term financial speculation, and air and sea travel.

In justice and home affairs (JHA), Austria plans to reopen the debate on whether Europol, the EU's police agency in The Hague, should gain powers to conduct investigations. It will also explore whether a new 'internal security committee' is needed to co-ordinate the EU's various security and police bodies. Schüssel is also seeking a final agreement on an EU 'fundamental rights agency', which would start working in 2007 and be based in Vienna. Moreover, Austria will put itself at odds with the European Commission by attempting to shelve a proposal on protecting defendants' rights across the EU: Vienna is concerned that the EU is exceeding its limited role in criminal justice questions.

Another tricky question looming during the Austrian presidency is the free movement of labour. The 12 'old' EU countries that have imposed restrictions on job-seekers from the new member-states will have to decide by May whether to lift them or keep them in place for another three years (and possibly until 2011). Austria and Germany have already announced that they will not lift restrictions, but other countries, such as Spain and Finland, are considering a liberalisation.

### **AUSTRIA'S ROLE IN THE EU**

Small countries often run more effective and successful EU presidencies than larger ones. But since becoming a member in 1995, Austria has had a chequered history in the EU. It is the only member-state that the EU has ever imposed political sanctions on – after Schüssel's centre-right peoples party, the ÖVP, formed a coalition with Jörg Haider's far-right FPÖ in 2000. The ÖVP renewed its coalition with the FPÖ after the November 2002 election. The FPÖ's popularity has since fallen steadily, and in April 2005 the party split. Haider and most other party bigwigs formed the BZÖ (now suddenly pro-EU and even pro-Turkish accession) and stayed in the coalition. The left-over FPÖ moved back to the far right fringe under its new leader, Heinz-Christian Strache.

### **Growing euroscepticism**

The experience of being treated as a political pariah may have contributed to Austria's growing euroscepticism. According to the latest Eurobarometer poll, less than a third of Austrians think that their country has benefited from EU membership, and less than a quarter have a positive image of the EU. These are the lowest scores of any EU country, below even those of traditionally eurosceptic Britain. Austria's low esteem for the EU is curious, considering how much the country has benefited from EU membership, and from EU enlargement in particular. Economists estimate that a full percentage point of Austrian GDP growth comes from its sizeable investments in the new member-states.

The fact that Schüssel faces elections in the autumn of 2006 will tie his hands throughout the EU presidency. A poll in mid-January showed that almost 70 per cent of Austrian voters consider the success of the EU presidency a key issue for the election. But it is not clear what they define as success: more than half think that the EU should be limited to the single market and less than 30 per cent support further integration. The centre-left SPÖ, the main opposition party, is trying to improve its electoral chances by covering some of the eurosceptic ground. SPÖ leader Alfred Gusenbauer has criticised Schüssel's EU policy for neglecting social concerns. The SPÖ has won the most recent regional elections. Pollsters expect it to gain the largest share of the vote in the forthcoming election, enabling it to form a coalition with either the ÖVP or the Green party.

### Sensitive issues

There are a number of EU-related issues that are particularly sensitive in Austria:

- ★ **Enlargement:** Austria borders four of the new member-states and has been the second biggest recipient of East European immigrants in the run-up to the 2004 enlargement, after Germany. There are also some 200,000 Turks living in Austria. Haider's past electoral success owed a lot to his anti-immigration and anti-enlargement stance.
- ★ **Big country domination:** with eight million inhabitants, Austria sees itself as a protagonist for the rights of small member-states. German, French and Belgian plans for a 'core Europe', or the idea of a *directoire* of large countries, are not welcome in Vienna.
- ★ **European security and defence policy:** Austrians value their traditional neutrality. Although Austrian troops increasingly take part in peacekeeping missions (including in NATO-led ones), both big parties are staunchly opposed to NATO membership or any other formal defence alliance.
- ★ **Transit issues:** the volume of cargo transit over the Austrian Alps is a long-standing grievance. Austrian lorry drivers may use the presidency to protest against the recent lifting of the remaining restrictions on lorries from other EU countries.
- ★ **Tax:** Austrian policy-makers, like some German ones, like to accuse the new member-states of 'unfair' tax competition. Austria did lower its corporate profit tax rate in response to tax cuts in East European countries (and is now attracting companies from neighbouring Bavaria). Nevertheless, Austrians like the idea of a minimum corporate tax rate in the EU.
- ★ **Stability and growth pact:** Austria's finance minister, Karl-Heinz Grasser, is the main critic of Germany and France having exceeded the pact's 3 per cent limit for four years in a row. Austria wants to revive the debate about a stricter stability pact.
- ★ **EU intervention:** Schüssel has openly criticised the role of the European Court of Justice (ECJ) in interpreting or setting European rules. Austria is particularly angry about the ECJ ordering it to admit students from other EU member-states to its universities.
- ★ **Energy:** Austria backs UK calls for an EU energy policy, but Vienna's emphasis on environmental issues will not be shared by all its partners. An abundance of hydro-electric power allows Austria to generate almost a third of its power from renewable sources. In the UK, by comparison, the share is around 3 per cent. Also, while some EU countries are considering a nuclear revival, Austria remains committed to staying non-nuclear.

### THE FUTURE OF THE EU CONSTITUTION

Chancellor Schüssel, and his foreign minister Ursula Plassnik, have been talking about using the presidency to revive the EU's constitutional treaty. They have received backing from the new German government in Berlin, a number of other EU countries, and the European Parliament. However, such plans appear wholly unrealistic, following the treaty's rejection in the Dutch and French referendums in mid-2005.

In order to come into effect, the constitution needs to be ratified by all 25 member-states. There are no senior politicians in either France or the Netherlands who argue that the outcome of last year's referendums could be reversed. Accordingly, very few of the 12 countries that have not yet ratified the document are in a great hurry to do so. On the contrary, Poland, Britain, Denmark and Ireland appear happy to have escaped their own national referendums. So although important countries such as Germany, Spain and Italy have adopted the document, the constitution appears well and truly dead.

### Three views on the treaty

The EU's June 2005 summit launched a 'period of reflection' on what to do about the constitution. The initial shock of those two referendums having worn off, a real debate is now starting. There seem to be three points of view among the member-states:

- ★ **Continue ratification:** The maximalist position is taken by many of the 13 governments that have ratified the constitution, as well as many MEPs. They argue that the process of ratification should continue, and that once 80 per cent of the member-states have ratified it, the European Council should meet (according the terms of a declaration attached to the constitutional treaty itself) to decide what to do about those who cannot ratify. However, there is no prospect of another seven countries ratifying the treaty. And even if the required number of 20 was reached, the subsequent meeting of the European Council would still have to decide by unanimity about what to do with the treaty. This means that any one government that has not ratified would be able to block the entire process. Germany, which takes over the EU presidency in the first half of 2007, is toying with the idea of adding a 'social declaration' to make the treaty more palatable to the French in a possible re-run of the referendum after the presidential election in 2007. But no senior French politician thinks another referendum is feasible.
- ★ **Bury the treaty:** The second group of governments – including Britain, the Nordic countries, Poland and the Netherlands – would like to declare the treaty dead. They do not want a new one, even a much reduced version. They hope that talk of treaty change subsides, since they would find it very hard to ratify a new text. But they could support implementing some of the ideas in the constitution that can be adopted within the framework of the existing treaties.
- ★ **Cherry-pick ideas:** The third group of countries are those that accept that the constitutional treaty is dead, but nevertheless hope to achieve some changes to the current treaties. France is the leader of this camp. President Chirac has talked of implementing parts of the constitution, he argues that some fairly minor parts could be implemented without treaty change, this year. He has also suggested that small treaty changes could be made next year, to adopt other parts of the constitutional treaty. Presidential hopeful Nicolas Sarkozy has talked of adopting the first and second parts of the constitution (leaving aside the details in part three) by parliamentary vote. Commission President José Manuel Barroso also appears to be in this camp of 'cherry-pickers'.

Because EU leaders are split into these three rival camps, they cannot at the moment agree on how to move forward. For example, there is currently no chance of all 25 agreeing to a menu of piecemeal reforms, based on parts of the treaty – whether by inter-governmental agreement or small treaty changes – because to do so would mean acknowledging the death of the constitution. So long as Germany and other maximalists claim that the treaty is alive, they will block attempts to cherry-pick.



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24<sup>th</sup> January 2006*