

A PRIMER ON THE GERMAN PRESIDENCY

By Katinka Barysch

On January 1st 2007, Germany takes over the rotating EU presidency. Chancellor Angela Merkel has ambitious goals that include an EU agreement on energy policy and on what to do with the Union's moribund constitutional treaty. Both will be very difficult to achieve. To make the presidency look like a success, Germany may concentrate on endearing the EU to its citizens – by throwing a big anniversary party for the Rome treaty, for example – and to European businesses by cutting back red tape and bureaucracy.

Officially, Merkel will not present the presidency programme until January 17th, when she will step in front of the European Parliament. But her government has already published a 25-page list of projects and objectives, ranging from encouraging innovation to liberalising rail transport and fighting illegal immigration. Germany's overall objective is nothing less than “re-launching Europe” (*“Europa neu begründen”*, as Merkel puts it).

A game of two halves

During the first half of the presidency, Merkel and her team will focus on ‘deliverables’ such as energy policy, climate change, economic reform and internal security. Like Tony Blair when he convened the informal Hampton Court summit in 2005, Merkel hopes to prove that the EU has much to offer to its people. The spring summit in March – traditionally devoted to economic issues – will focus on energy questions and cutting red tape. Moreover, EU leaders will discuss climate change, which ties in nicely with the G8 presidency that Germany also holds in 2007.

The second part of the presidency will kick off with a month-long party to celebrate the 50th anniversary of the Treaty of Rome. Local festivities such as cake-baking competitions and all-night street parties will culminate in a grand political declaration to be signed by the 27 EU leaders at an informal summit in Berlin on March 24th. The text will remind Europeans that the EU once brought peace and prosperity to a war-torn continent; it will lay out the values that unite the Union; and it will warn that only the EU can help European countries to cope with new challenges such as climate change, international terrorism or global competition. Since the Berlin declaration is supposed to find a wide audience, the Germans want to fit all this on just a few pages.

One issue that is unlikely to get a mention in the political declaration is the constitutional treaty. The issue remains so controversial that it risks spoiling the party. Germany will start talking to its 26 EU peers about the treaty early on in the presidency, but discreetly and away from the limelight. It hopes to get a compromise on what kind of treaty the EU needs and how to get it by the June European summit.

Expectations management

Germany's presidency programme is certainly ambitious. In the autumn, Merkel and her ministers started backtracking, in particular playing down prospect for a constitutional settlement. But there are several reasons why expectations towards Berlin's leadership remain high. And there are as many reasons why they may be disappointed.

★ **Bigs and smalls:** After a year of small-country presidencies (Austria followed by Finland), Europeans hope that Germany – with its economic weight and political clout – can finally move the EU forward on several fronts. Small countries often find it easier to adopt the role of an ‘honest broker’ that is expected of an EU president. But, being able to give and take, large-country presidencies can play a more active part in forging consensus. They also find it easier to shoulder the administrative burden of running the EU agenda. Germany, for example, will have to manage around 4,000 EU events, as well as over 40 meetings with non-EU countries, including EU summits with Russia, Japan, Canada and the US.

The risk is that unrealistically high expectation could make the German EU presidency look like a failure. This could dampen the mood in Europe at a time when the eurozone economy is finally picking up, and renewed optimism is sorely needed to tackle a multitude of problems. Germany will be followed in the EU chair by Portugal and Slovenia. Not until the second half of 2008 will another large country (France) take the lead. However, closer co-operation between all four countries under a new ‘trio-presidency’ system should help to mitigate the lack of large-country leadership between mid-2007 and mid-2008.

★ **Peerless leader:** In Great Britain, Tony Blair is due to hand over power to a successor (most likely Gordon Brown) before mid-2007. France holds presidential elections in April and May 2007 (with legislative elections due in June). The Netherlands only has a caretaker administration, following the collapse of the centre-right coalition in June 2006. Italy’s fractious coalition government is busy squabbling about domestic reforms, which suggests that Rome will continue punching below its weight in the EU. Poland’s EU policies are oscillating between awkward and obstructive, while Spain’s interests are fairly narrowly defined. Europe is begging for leadership. And Merkel looks like the only one who can provide it.

While political uncertainty in the other large EU countries leaves Merkel with an unusually strong hand, it also brings problems. It would be hard enough having to consult 26 EU governments. But Merkel will also have to talk to various candidates and would-be leaders. This will vastly complicate negotiations, in particular on the EU constitutional treaty. In France, a new government will only just be settling in by the end of the German presidency.

★ **The art of compromise:** Merkel made a strong debut on the EU stage in December 2005, when she helped to broker a deal on the EU’s common budget, ending months of difficult negotiations. This performance, combined with her ability to hold together Germany’s unwieldy coalition government, has brought her a reputation for being adept in forging compromises – a key skill for any EU president. However, Merkel’s critics say that her penchant for compromise and consensus have come at the expense of leadership. “Merkel does not forge decisions”, says one German official, “she manages discord.”

★ **Domestic backing:** Intra-coalition disputes between Merkel’s conservative CDU and her Social Democrat partners have impeded domestic reform in Germany. But in EU policy, disagreements between the two coalition parties are less pronounced. The most notable exception is Turkey’s potential membership, with the CDU favouring a privileged partnership. But after the EU partly suspended Turkish accession talks in December 2006, enlargement questions are largely off the agenda.

Public opinion in Germany is unlikely to be a major concern: an Ipos poll from December 2006 found that 85 per cent of Germans were unaware of their country’s forthcoming EU chairmanship. A majority of Germans support Merkel’s biggest presidency project – the revival of the EU constitution.

While Germany’s powerful *Länder* governors are unlikely to pay much attention to the EU presidency, Berlin’s mighty ministries could be a headache. The German constitution gives individual ministers considerable power to run ‘their’ area of policy. Differences within the cabinet could impede Merkel’s ability to lead at the EU level. With regard to climate change, for example, the environment ministry wants Germany to push for strict post-Kyoto targets on greenhouse gas emissions while the economics ministry worries about the costs for German business.

Energy, environment and economic reform

Germany’s economic upswing, shrinking budget deficit and falling jobless numbers will give Merkel much credibility when she calls for renewed reform efforts at the spring EU summit. Two years after reviewing the

Lisbon reform agenda, EU leaders will take stock whether the agreed changes are helping to improve Europe's growth and competitiveness. From the long list of Lisbon policies, Germany is likely to single out a few, such as energy market liberalisation, equal opportunities in the labour market and the EU's 'better regulation' agenda launched in 2002.

★ **Better regulation:** Germany is likely to ask EU governments to commit to reducing the regulatory burden for business by 25 per cent by 2012. According to Günter Verheugen, the (German) Commissioner in charge of this dossier, this would add €150 billion (or 1.5 per cent) to EU GDP over the medium term. Businesses will undoubtedly welcome such plans. However, it is not yet clear how the 'bureaucratic burden' will be measured; and how much responsibility for reducing it will lie with the Commission and how much with EU governments (some of which are prone to 'gold plating' EU rules at the national level). A Commission paper on the subject – due in January – should provide some clarity.

More promising could be Merkel's idea to set up an independent expert panel to assess the impact of new (and in due course) existing EU regulations. Germany has recently created such a body at the national level and thinks that the EU would also do better if independent experts, rather than Commission officials, studied draft laws. Finally, Merkel has suggested that the EU should adopt the principle of 'discontinuity'. At the national level, legislative initiatives become void if the government changes. At the EU level, draft directives can hang around for decades as one Commission hands over to another. In future, all draft directives that have not been adopted during the 5-year term of one Commission would have to be withdrawn and re-submitted by its successor.

★ **Energy policy:** Cuts in Russian gas supplies in January 2006, high global oil prices and national protectionism against cross-border mergers have kept energy near the top of the EU agenda. In March 2006, the Commission published a green paper on energy. It called for the completion of the EU's internal gas and electricity markets, the increased use of renewables and a more coherent external energy policy, in particular vis-à-vis Russia. Although EU governments routinely pay lip-service to the importance of energy security, there has been little progress towards a more coherent and effective EU energy policy. So the Commission will step in again, this time with a strategic energy policy review, to be released on January 10th. The spring European Council in March is expected to agree on specific steps and policy targets.

Although Germany has officially endorsed many of the Commission's ideas, it will struggle to be seen as an honest broker by its EU partners. The lobbying power of Germany's energy giants has at times been an obstacle to building a single EU market for gas and electricity. On December 11th, Germany, alongside France, indicated that it would block Commission plans to force energy companies to 'unbundle' power generation from transmission and distribution. Similarly, Berlin's close bilateral ties with Moscow have prevented the EU from speaking with one voice when dealing with Russia, which supplies one-third of the EU's gas.

If questions of market liberalisation and energy diplomacy prove overly controversial, Germany may seek to shift the emphasis towards technical and environmental issues. In particular, Germany is planning to submit a "renewable energy road map" and new energy efficiency targets for buildings and transport. Some energy-related issues are so controversial that Germany will try to keep them off the agenda altogether. In particular, Berlin will resist any attempts to harmonise the member-states' energy mix or to grant other EU countries easy access to its massive gas storage facilities.

★ **Climate change:** Fighting climate change is another area where Germany's credentials are a little weak. In December, the European Commission shaved 30 million tons off Germany's quota for CO₂ emissions for the 2008-2012 period, saying that Germany's own targets had been too lax. The country's 'big four' energy companies cried foul, and Berlin is now lobbying Brussels for a higher quota. One the other hand, many Germans are distressed about the Stern report on the cost of climate change and Merkel is said to take the issue very seriously. She plans to reach agreement with her EU counterparts on a new climate change regime for the years after 2012, when the Kyoto protocol expires. Such an intra-EU agreement – due to be endorsed at the spring EU summit – would then form the starting point for climate change negotiations with the US, China, India and others big countries invited to the G8 summit in Heiligendamm in June.

Foreign and security policy

The EU's foreign policy during the German presidency will to a significant degree be dictated by world events. Iran, Iraq, Afghanistan and Lebanon will be on the agenda when EU foreign ministers meet under

German leadership, as well as Kosovo's 'final status' negotiations. Although Germany's presidency programme talks about improved coherence in EU foreign policy, there are unlikely to be big practical steps. Possible improvements such as merging the jobs of the Council's High Representative for foreign policy and the External Relations Commissioner would be seen as 'cherry picking' from the EU constitution and are therefore off limits while the negotiations on the treaty still go on. Instead, Berlin will try to direct EU foreign policy towards the EU's eastern neighbourhood.

- ★ **A new agreement with Russia:** The German government had been hoping to use its presidency to get the EU and Russia to agree on the parameters of a new bilateral treaty, to replace the partnership and co-operation agreement (PCA) that expires in November 2007. However, Poland has been vetoing the EU's own negotiating position because Russia bans Polish meat imports. Even if Warsaw withdrew its veto, internal EU divisions, a general cooling in EU-Russia relations and the forthcoming Russian presidential and parliamentary elections would stand in the way of rapid progress towards a new treaty. The impact on EU-Russia relations would be slight since the PCA is prolonged automatically unless either side gives notice. EU energy companies, however, may be disappointed: Germany wants to take some of the rules on pipeline access, investment and transparency from the Energy Charter Treaty (which Russia refuses to ratify) and tie them into the post-PCA package.
- ★ **Neighbourhood policy plus:** Following the 2004 eastward enlargement, Germans display little enthusiasm for admitting further countries into the EU. At the same time, Germany worries more than most about instability along the EU's new eastern border. Political mayhem, poverty, crime and extremism in the former Soviet Union could quickly spill over into the EU. In 2004, the EU launched its European neighbourhood policy (ENP) to help stabilise the countries around its external borders and bind them closer to the EU. However, so far the ENP has had little impact on the ground. Germany wants a new neighbourhood policy to offer juicier carrots, so that the neighbours are motivated to reform.

Berlin had to give up its initial idea that an "ENP-plus" should be available only to the EU's eastern neighbours, such as Ukraine, Moldova and Georgia. There was too much opposition from Spain and other southern EU countries that worry about political instability in, and economic migrants from, Northern Africa. Now Germany, together with the Commission, is working on a new package that will in principle be available to both the East and the South. Neighbouring countries will be offered deeper integration with the EU in individual sectors such as energy and transport. Countries that respect democratic standards and have reasonably open economies will be offered 'deep free trade', which entails the dismantling of tariffs and non-tariff barriers. In addition, the EU also wants to encourage more co-operation among East European countries, for example those around the Black Sea and the Baltic Sea.

- ★ **Central Asia:** Finally, Germany will use its presidency to formulate the EU's first-ever strategy towards Central Asia. The region is important for Europe as a potential energy supplier but also as a source of illegal immigrants, extremism or smuggled drugs and weapons. Nevertheless, while the US, Russia and China are engaged in a 'great game' to gain influence in Central Asia, the Europeans are almost entirely absent. Germany therefore wants to draw up plans for more co-operation with the likes of Uzbekistan, Kazakhstan and Turkmenistan on counter-terrorism, smuggling, migration, regional stability, transport and of course energy. However, attempts to build stronger ties with the region's autocratic governments will be criticised by the EU's Nordic members that have traditionally stressed human rights in EU foreign policy. Getting the EU member-states lined up on this region is difficult. France and Germany recently campaigned – along with Russia – for Kazakhstan to take over the chairmanship of the OSCE; Britain and some others took the American line and blocked this move, on the grounds that the country's human rights record was not up to scratch.

Internal security and migration

Germany – usually in the vanguard for more European integration – has been rather cautious about increasing the EU's power in justice and home affairs. Most other EU countries, however, are convinced of the need for deeper collaboration on immigration policy, border controls and the fight against crime and terrorism. Public fears about terrorism and waves of illegal immigrants arriving on Europe's Mediterranean coastline will keep JHA on the EU's agenda.

- ★ **Stronger EU bodies:** The German presidency will argue that Frontex, the EU border agency, cannot cope with the huge task of co-ordinating member-state efforts against illegal immigration without more robust powers, and more experts and money. Germany also wants to set up an intelligence network at Europol, the EU's police office, to clamp down on terrorist organisations that recruit and

train through the internet. The Germans intend to put fresh pressure on member-states that are holding up moves to let Europol officers work directly on ongoing police investigations and to share intelligence more widely. There will also be a debate over what other powers Europol should have to make it more effective in the fight against crime.

- ★ **Treaty of Prüm:** Germany is likely to push for all EU members to sign up to a treaty on police co-operation, first agreed in the German town of Prüm in 2005. The Prüm treaty allows signatories to freely share DNA and fingerprint data, and to work together more closely in cross-border police operations. Seven member-states have already ratified the treaty and more, including Britain, want to sign up. But if they cannot get the unanimous support needed to make Prüm an EU treaty, German diplomats might try using special rules that could allow a smaller group to press ahead and fold the treaty of Prüm into the EU treaties. This proposal could be contentious: the rules for such 'enhanced co-operation' have never been used. Tough negotiations are expected too on a revamped law to fight racism and xenophobia, including a possible EU ban on the display of Nazi symbols, and standards for protecting citizen's rights during cross-border trials.

The EU constitutional treaty

- ★ **Germany's maximalist position:** The future of the EU constitution is the area where Germany may find it hardest to play the role of an impartial broker since it leads the camp of those who want save the agreement. Embarrassingly, Germany's federal president has refused to sign the treaty into law after the constitutional court said it would not rule on it before all EU countries had adopted the text. Nevertheless, German politicians routinely point out that two-thirds of EU countries have ratified the treaty (18 including Germany and the two newest members, Bulgaria and Romania). According to Reinhard Silberberg from Germany's foreign ministry, the sheer force of numbers means that those who have not ratified will have to "move more than others". To drive the point home, Spain and Luxemburg (with tacit Berlin backing) are organising a get-together for those that have already ratified the treaty in January.

Merkel insists that the constitutional treaty must be the starting point for any future negotiations. While she initially seemed willing to accept a less ambitious name, more recently she has stressed that the new treaty must be "a constitution" (the German word *Verfassung* implies a basic set of rules of a higher order than ordinary law). The name could be bargained away in return for concessions in other areas. But Germany will still want to save as much of the treaty as possible, arguing that it represents a delicate compromise among the member-states that should not be unravelled.

- ★ **The repeat referendum threat:** Merkel concedes that the Dutch and French governments will not submit the same treaty to repeat referendums. She also knows that anything resembling the current constitutional treaty would mostly likely be killed in a popular vote in the United Kingdom. She will therefore aim for a compromise document that is ambitious enough not to make the EU look lacklustre and deadlocked (and the German presidency like a failure); but at the same time modest enough so that it can be adopted by most or all EU countries without a referendum. One likely issue of contention will be the charter of fundamental rights and freedoms that forms part two of the current treaty. Germany insists that the charter should stay, to add gravitas to the treaty and also to show EU citizens that the Union cares about their rights. The UK, however, has always disliked the charter's vague social principles (such as the right to strike) and it fears that it would be almost impossible to avoid a referendum if the new treaty contained a bill of rights.
- ★ **The timetable:** Germany hopes to get a broad agreement on which parts of the treaty should be saved and which should be watered down or ditched altogether by the June European Council. It also wants the summit to adopt a road map that lays out how and when the new treaty should be adopted. Ideally, Germany would like a new treaty to be in force by May 2009, when Europeans vote for the new European Parliament and the new Commission gets ready to take office. For this deadline to be kept, the member-states would have to convene a short 'intergovernmental conference' in the second half of 2007. Assuming that it takes at least a year for all 27 EU members to ratify a treaty, they would have to have a final agreement by early 2008 – a highly ambitious timetable. Understandably, the Germans hope to get as much of the substantive negotiations as possible out of the way before they hand over to the Portuguese in July 2007.

The UK government also has an interest in an early solution: it wants to keep the EU issue well away from national elections, which are due in 2009 at the latest. On the other hand, if the negotiations dragged on,

they would become entangled with the EU's budget review that will get under way in 2008. The UK could then tie demands for farm policy reform to concessions on the treaty. The biggest headache for the timing is France, however. France cannot really engage in substantive negotiations until after the new president is installed in May 2007. That may leave the Germans just weeks to create a compromise.

For Merkel getting agreement on a road map but not on the principles of the new treaty would feel like defeat. She may therefore be tempted to single out those countries that oppose a new treaty. Blaming 'eurosceptic' members for a failed summit may be preferable to taking responsibility for a wishy-washy agreement. Rather than being the great unifier of Europe – as many people hope – Merkel could leave the EU more divided than ever.



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