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AUSTRIA: STRUCTURAL DOMESTIC CHANGE  
THROUGH EUROPEAN INTEGRATION

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## **I. Introduction : Ambivalence as "Leitmotiv"**

Austria's attitude towards the (West) European integration process soon after 1945 has been ambivalent at best.<sup>1</sup> The Second Republic was designed as a democratic system, based on political pluralism and party competition. But its political culture and its real character ("Realverfassung"), because of its strong corporatist elements, developed into the typical features of the specific "Austrian model". The first steps towards post-war recovery and re-integration into the international community were largely shaped by participation in the Marshall Plan-Programme. The amazing economic success of the first decades after the occupation by the four Allies (until 1955) helped to create a stable socio-political environment. In contrast to the harsh conflicts of the interwar period the emergence of a consensus-oriented society was a major task resulting in a pact between parties, chambers, employers and trade unions called the social partnership.<sup>2</sup>

In its international orientation membership in the United Nations (1955) and in the Council of Europe (1956) was achieved shortly after the State Treaty in May 1955 was signed and the Constitutional Law on permanent neutrality as the condition for regaining independence was adopted. Together with the socio-economic success story these factors formed the basis of a so far unknown strong popular identification with the "Austrian Nation"<sup>3</sup>.

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<sup>1</sup> See Gehler, Michael/Kaiser, Wolfram, "A Study in Ambivalence: Austria and the European Integration 1945-95", *Contemporary European History*, Vol.6 (1), pp. 75-99, 1997; Gehler, Michael/Steininger, Rolf (eds.), *Österreich und die europäische Integration 1945-1993. Aspekte einer wechsellvollen Entwicklung*, Vienna-Cologne-Weimar, Böhlau, 1993; Schneider, Heinrich, *Alleingang nach Brüssel. Österreichs EG-Politik*, Bonn, Europa Union, 1990;

<sup>2</sup> The literature about social partnership is numerous, e.g.: Gerlich, Peter, 'A Farewell to Corporatism', in Luther, Kurt R./Müller, Wolfgang C. (eds.), *Politics in Austria: Still a Case of Consociationalism?*, London, Cass, 1992, pp. 132-146; Tálos, Emmerich, 'Corporatism – The Austrian Model', in Lauber, Volkmar (ed.), *Contemporary Austrian Politics*, Boulder Col., Westview, 1996, pp. 103-123; Bischof, Günter/Pelinka, Anton, *Austro-Corporatism. Past-Present-Future*, *Contemporary Austrian Studies*, Vol. 4, New Brunswick-London, Transaction Publ., 1996; Karlhofer, Ferdinand/Tálos, Emmerich (eds.), *Sozialpartnerschaft. Wandel und Reformfähigkeit*, Vienna, forthcoming 1999.

While it kept a rigid attitude on military aspects of permanent neutrality, Austrian politicians showed a more flexible stance in interpreting neutrality with regard to economic and ideological dimensions. Austria not only signed a custom's and price agreement with the European Coal and Steel Community in 1956 in the frame of GATT, but also entered into negotiations with the European Economic Community (EEC) in order to establish independent agreements on tariff reductions, dispute resolution committees and economic policy harmonization in 1960.<sup>4</sup> As for the rest of the European neutrals (Switzerland, Sweden and Finland) at that time membership in the EEC was viewed as incompatible with permanent neutrality. So these countries cooperated in setting up the European Free Trade Association (EFTA) of the so-called Outer Seven.<sup>5</sup> Since NATO membership of Great Britain and Norway did not bother the neutrals in the EFTA-frame, EEC membership may have been seen as economically too far-reaching for them.

Against a completely changing political and economic background full EC-membership was first demanded by the Federation of Austrian Industrialists in May 1987.<sup>6</sup> The Austrian People's Party (ÖVP), the smaller of the two coalition parties followed suit and after all provincial governors, as well as the four institutions of the system of social partnership had come out in favour of EC membership in March 1989, the Social Democratic Party (SPÖ) finally made up her mind to vote for the application which was subsequently lodged in July 1989.<sup>7</sup> This development was only logical for the ÖVP under Foreign minister Alois Mock who was an early and enthusiastic advocate of European integration whereas the SPÖ underwent a certain change in her stand on Europe. It was Chancellor Franz Vranitzky who convinced the party of the gains of EC membership.

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<sup>3</sup> Cf. the contributions of Kreissler, Felix, *Der Österreicher und seine Nation. Ein Lernprozeß mit Hindernissen*, Vienna, Böhlau, 1984; Bruckmüller, Ernst, *Österreichbewußtsein im Wandel. Identität und Selbstverständnis im Wandel*, Vienna, Signum, 1994.

<sup>4</sup> Cf. Mayrzedt, Hans/Hummer, Waldemar (eds.), *20 Jahre österreichische Neutralitäts- und Europapolitik (1955-1975)*, Vienna, Braumüller, 1976.

<sup>5</sup> Apart from Austria these countries comprised Great Britain, Sweden, Norway, Denmark, Switzerland and Portugal.

<sup>6</sup> This demand was supported by an expert judgement on the compatibility of Austrian neutrality with EC-membership – cf. Hummer, Waldemar/Schweitzer, Michael, *Österreich und die EWG. Neutralitätsrechtliche Beurteilung der Möglichkeit der Dynamisierung des Verhältnisses zur EWG*, Vienna, Signum, 1987.

<sup>7</sup> See Kaiser, Rolf, *Basic Institutional Options for National EU Coordination (SIGMA-Arbeitspapier)*, Vienna 1995, and Schaller, Christian, 'Zur Diskussion um den österreichischen EU-Beitritt', in Tálos, Emmerich/Falkner, Gerda (eds.), *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, Vienna, Manz 1996, pp. 17-32.

The Austrian government's re-orientation was motivated primarily by economic considerations and accepted the consequences of membership for the national decision making processes and for various policy fields, especially in the realm of economy, social security, environment and democratic policy. Foreign and military security arguments, by comparison, only began to feature more prominently with the collapse of the Soviet Union and the beginning of the war in former Yugoslavia.<sup>8</sup> Austria dashed ahead in the question of membership at a time when the governments of Switzerland, Sweden and Finland still perceived neutrality and EC-Membership as incompatible.<sup>9</sup>

For many analysts, especially for those who were acquainted with the traditional Austrian foreign policy profile of "active neutrality policy" this came as a surprise. Retrospectively it is worth mentioning that Austria applied for membership at a time when the Community was pushing heavily towards integration in many fields, not the least for defense cooperation and was heading for the Treaty on the European Union. In June 1992, the Austrian government declared its "preparedness to participate in the CFSP and in its dynamic development actively and in a spirit of solidarity".<sup>10</sup>

Membership to the EU required far-reaching constitutional changes for Austria, a two-thirds majority in the "Nationalrat" (the Austrian Parliament), but also approval by the "Bundesrat" (The Federal Council), and finally a popular referendum.<sup>11</sup> Considering that there was rather strong opposition in the population (between 38 % in spring 1989 and more than 40 % in 1991 and 1992 against membership), and two opposition parties strongly arguing against accession, the task for the government to convince the population was not a small one.<sup>12</sup> Moreover, membership in the European Economic Area which was achieved on 1

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<sup>8</sup> Note that Austria's preparations for accession had already started before democratic resolutions in Eastern Europe and before the USSR changed her foreign policy behaviour – cf. Lantis, Jeffrey S./Queen, Matthew F., "Negotiating Neutrality: The Double-Edged Diplomacy of Austrian Accession to the European Union", *Cooperation and Conflict*, Vol. 33 (2), June 1998, pp. 152-182.

<sup>9</sup> Cf. Kramer, Helmut, 'Austrian Foreign Policy from the State Treaty to European Union Membership', in Luther Kurt R./Pulzer, Peter (eds.), *Austria 1945 – 1995*, Dordsmouth, Aldenshot, 1996, p. 173, pp.161-180.

<sup>10</sup> Jankowitsch, Peter, 'The process of european Integration and Neutral Austria', in Harden, Sheila (ed.), *Neutral States and the European Community*, London, Brassey's, 1994, pp. 35-62, p.57.

<sup>11</sup> EU membership was generally considered to affect fundamentally various central constitutional principles, such as the democratic and federal principles, amounting to a so-called *Gesamtänderung* (total revision) of the Constitution, that according to Article 44 requires a referendum in addition to a two-thirds majority in Parliament.

<sup>12</sup> The FPÖ since 1991/92 had changed from a strong pro-accession party to a denying membership stance, and traditionally also the "Greens".

January 1994 was not regarded as a suitable substitute for full membership of the European Union – it was merely taken as a tiresome but necessary pre-stage also providing the government with arguments in favour of accession: Taking over two-thirds of the *acquis communautaire* without participation in the decision-making institutions of the EU would be foolish.

Austria's membership negotiations began on 1 February 1993 and were concluded on 1 March 1994. Areas of greatest domestic political concern to the government were agriculture, transit traffic and regulations restricting the sale of property in Alpine regions.<sup>13</sup> Reflecting the internal politics of the grand coalition, the Austrian negotiating team was officially led by the Foreign Minister Alois Mock (ÖVP) and the State Secretary in the Chancellor's Office, Brigitte Ederer (SPÖ). The Austrian negotiation positions had mainly been a matter of coordination between the government, the social partners and the provinces, while the Parliament despite participation and information rights remained outside.

A referendum on membership was obligatory under the constitution and was called by the government for 12 June 1994, well in advance of the Scandinavian countries. The referendum debate was characterised by a marked and stable elite consensus on the desirability of EU membership. Main opponents were the right-wing and populist Austrian Freedom Party (FPÖ)<sup>14</sup>, the Green Party as well as the neglectable Austrian Communist Party. The FPÖ under Jörg Haider tried to stir up and exploit popular sentiments as well as parts of the Trade Unions and farmers, extra parliamentary initiatives (Anti-transit Movement) and some other grass roots organizations formed by more or less prominent individuals opposing EU-membership. But because of the large heterogeneity of interests a common position amongst these groups was not achieved. Compared with the Scandinavian countries, opinion polls in Austria since the application had indicated a relatively clear, albeit volatile majority in favour of membership that dwindled temporarily during the critical phases of the entry negotiations in the winter of 1994. Yet the extent of the need for domestic adjustments was deliberately played down by the elites for not putting at risk the majority in the referendum. The Austrian objectives remained the same: guaranteeing sustainable economic growth and

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<sup>13</sup> On negotiations see Granell, Francisco, "The European Union's Enlargement Negotiations with Austria, Finland, Norway and Sweden", *Journal of Common Market Studies*, Vol.33 (1), 1995, pp. 117-41.

securing political manoeuvrability and influence of the country. On voting day turnout was 82.4 per cent, 66.6 per cent voting in favour of EU membership and only 33.4 per cent against.<sup>15</sup> After the parliamentary ratification process was concluded, Austria joined the EU on 1 January 1995.<sup>16</sup>

The most important legal effects of accession was to take over the parts of the EU-acquis which have not already been integrated with EEA-membership. What was clear from the beginning was that the balance between government, parliament and the social partners would shift in the direction of the former. The parliament was expected to lose its legislative monopoly<sup>17</sup>, the public service would come under mounting pressure and the social partnership, the system which had served Austria so well in the sixties and seventies but which has become a burden to modernisation would change substantially too.<sup>18</sup>

## **II. Preparing, making, implementing and controlling EC-legislation: From consociational to competitive democracy?**

With EU membership the perception of the Austrian society as being composed of quite stable relationships of relatively equal interest groups suddenly was superimposed by the reality of antagonisms between winners and losers of the integration process. The idea of being an "island of the blessed" began to be replaced by a more intense power struggle, the coalition parties SPÖ (Social Democratic Party) and the ÖVP (People's Party) trying to maintain their political influence on society<sup>19</sup>, the opposition parties FPÖ (Freedom party), LIF (Liberal Party) and the Green Party demanding their say in the new casting within the

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<sup>14</sup> The FPÖ only changed its position towards the European integration 1991/92. It has previously been an ardent supporter of the integration process. Among other reasons the sudden change of Jörg Haider led to the formation of the splinter group of the Liberal Forum (LIF) in February 1993.

<sup>15</sup> See Kaiser, Wolfram, "Die EU-Volksabstimmungen in Österreich, Finnland, Schweden und Norwegen: Folgen für die Europäische Union", *Integration*, Vol 18 (2), 1995, pp. 76-87.

<sup>16</sup> For an exact picture of voting behaviour see the disaggregated figures in Pelinka, Anton, *Austria. Out of the Shadow of the Past*, Boulder Col., Westview Press 1998, p. 67.

<sup>17</sup> Cf. Neisser, Heinrich, 'Parlamentsreform und Europäische Union', Gerlich, Peter/Neisser, Heinrich (eds.), *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Vienna, Signum, 1994, pp. 43-69.

<sup>18</sup> Cf. Talos 1994, p. 179.

<sup>19</sup> Between 1945 and 1995 the two parties combined always managed to attract between 94, 4 and 66,4 per cent of the votes. This tight grip goes hand in hand with a significant degree of organizational density of the party system (in the 1970s around 30 per cent of the population consisted in party

policy making process enlarged by the additional European layer. The opposition was able to underpin its demands with the results of the 1994 federal elections: the two government parties combined lost more than 12 per cent and, consequently, their previous two-thirds majority in Parliament. This enabled the opposition to press for strong controlling rights for the Austrian Parliament in EU-issues (Kohl 1995; Neisser 1998). Post-war consociational patterns of governance came under strain driving the system towards greater competition and confrontation (Pelinka 1998, p.71).

At least parts of the governing Austrian political elites expected EU-membership to be a catalyst for structural reform. In order to optimize their influence within the complex EU-system a more anticipatory policy-making style and swifter decision-making procedures had to be developed. The traditional, sometimes sluggish consultations with the social partnership institutions (Federal Chamber of Labour, Austrian Federation of Trade Unions, Presidential Conference of Chambers of Agriculture, Austrian Chamber of Business) and with interest groups were not seen to enable the Austrian political system to deal effectively with the complex multi-level system of the Union.

In order to adapt the domestic decision-making structures to EU membership three major problems had to be tackled: how to co-ordinate the governmental policy-making process, how to involve the Länder in it, and how to secure parliamentary scrutiny of government policy within the EU? However great the aims to modernize the Austrian corporatist system, the results have still to be seen in its continuity. The two coalition parties (SPÖ/ÖVP) decided on a system of formal equality. Today EU-policy is co-ordinated by the Federal Chancellory and the Foreign Ministry, the former being dominated by the Social Democrats, the latter by the People's Party. From a legal point of view co-ordination within the Austrian government is only necessary in so far as a European topic forces several ministerial ressorts to act. This is mainly due to the differences in the distribution of competences on the European level and in the Austrian bureaucracy. The political agreement to share the responsibilities and merits to a far greater extent than in the past has been politically formalized in the coalition agreement of 1994 (and a separate statute from 1996<sup>20</sup>).

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members). But in the 1980s, new political mobility and the concurrent erosion of the party state significantly changed the party system.

<sup>20</sup> Cf. Circular of the Federal Chancellory and the Ministry of Foreign Affairs from 19<sup>th</sup> January 1996, part I.



### *The federal and government*

Once a week the government discusses the Austrian position for the next meetings of the Council of the European Union. Under a special item on the agenda the respective member of the government reports about the subjects which for implementation need a governmental decision by law in the form of an oral or written cabinet address before the meeting of the Council of the European Union where the decision is taken at the latest.<sup>21</sup> The purpose of the cabinet address is the description of the subject as well as a justification of the Austrian position. Furthermore, the coalition agreement demands a permanent information exchange between the ministries. Due to the potential role of the so-called Main Committee of the Parliament granted by constitutional law the heads and directors of the parliamentary groups of the government parties were granted the right of participation and speech in the Austrian cabinet meetings.

The position of the permanent representative in COREPER I and II is co-ordinated in a weekly *jour fixe* where all ministries, the Austrian National Bank, the Austrian Statistical Office, the Liaison Office of the Austrian Länder and the social and economic partners take part. As a general rule for common working groups a system of periodic change in chairmanship was fixed between the parties.

The federal government in agreement with the Main Committee of the Parliament nominates the candidates for the European Commission, the European Court of Justice, the Court of First Instance, the European Investment Bank and the European Court of Auditors. This procedure constitutes a constitutional novelty because for the first time the Parliament (in form of the Main Committee) takes part in personnel decisions of the government. On the other hand the Austrian President was granted an information right only.

The presidential element of the Austrian constitution has – contrary to some expectations before accession – not been strengthened. After a short disagreement between the Austrian Chancellor Franz Vranitzky and the Austrian President Thomas Klestil on the occasion of the Corfu summit in June 1994 about who was going to be the main

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<sup>21</sup> Statute of the Austrian Government 1996.

representative at European Council meetings the latter was limited to his constitutional role, i.e. without specific competences in European politics.<sup>22</sup>

### *The Parliament*

In comparison with other national parliaments the Austrian Parliament is provided with strong constitutionally embodied participation rights in the field of EU-policy.<sup>23</sup> Articles 23e and 23f were introduced in a constitutional amendment in December 1994 regulating the rights of information and opinion. Thus, Morass (1996, p.39) speaks about a "special constitutional democratic legitimation" by the Parliament. Today this assessment seems to be in need of a certain reconditioning. The government is obliged to inform the Parliament, i.e. its Main Committee about 'any initiatives' within the EU.<sup>24</sup> Parliamentary scrutiny not only includes legislative initiatives but also political ones and encompasses all three pillars. Positions by the Main Committee bind the government. An escape clause can be invoked by the government if there are 'compelling reasons of integration policy' (Art 23e par 2 B-VG). EU-decisions which require constitutional changes in Austria necessarily demand an advance agreement with the Parliament. Whereas the Main Committee is supposed to deal with questions of supranational nature (i.e. first pillar subjects) the Foreign Policy Committee of the Austrian Parliament is responsible for intergovernmental questions (e.g. CFSP) and possible changes of the Community Treaties. There is no direct coordination between the two committees but a certain coherence can be reached through personal union or in the so called Preparatory Committee which tries to stem the information avalanches coming from the bureaucracy. This committee consists of representatives of all parties and the "Klubreferenten" (secretaries of the parliamentary groups) meeting usually the day before the Main Committee comes together and pre-selects the incoming information and draws up an agenda for the Main Committee.

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<sup>22</sup> However, it is only because the constitution is quite unprecise in that respect that this quarrel emerged.

<sup>23</sup> The Austrian model to involve the Parliament in EU-politics is discussed in Bergmann, Torbjörn: "National Parliaments and EU Affairs Committees: Notes on Empirical Variation and Competing Explanations", *Journal of European Public Policy*, 4, 1997, pp. 373-387; Griller, Stefan: *Zur demokratischen Legitimation der Rechtsetzung in der EU*, *Journal für Rechtspolitik*, 3, 1995, pp. 164-179.

<sup>24</sup> With the reform of the standing order of the National Council 1996 a special European Committee (being itself a sub-committee of the Main Committee) was founded – this committee has not met until today!

What in theory looks like a remedy for the lamented democratic deficit in EU related domestic policy making turns out to be of limited use in practice. Setting a tight scope for negotiations would impede the manoeuvrability of the acting minister and contradict the widespread practice of package deals in the European Union (Österreichische Juristenkommission 1996, p. 218).<sup>25</sup> On the other hand the Parliament simply cannot cope with the enormous amount of information – which may serve a certain strategy of the bureaucracy (see Falkner/Müller 1998) to neutralize the Parliament. In addition the Parliament depends on the reports of the participating agents and has no possibility to get first-hand information due to the complex and intransparent multi-level system of the European Union. In the year 1995 the Parliament was informed of 17.317 European projects. Though this number looks quite large one must not forget that it comprises proposals of legislative acts, reports, opinions, invitations for meetings, agendas, requests for preliminary rulings, etc. Around 70% of the documents came from the Council of the EU, 20% from the European Commission, 7% from the Permanent Representation of Austria in Brussels, 1% from the European Court of Justice, 1% from the European Parliament and 1% from the European Court of Auditors. Around one hundred became subject of deliberation in the Main Committee which finally issued eighteen opinions. 1996/1997 37.624 projects were conveyed to the Main Committee, 106 have been dealt with, eleven statements were made at last. Considering that the Main Committee comprises twenty nine members even a very selective approach can handle only a fraction of the important issues.

### *The Länder*

From the outset the nine Austrian Länder realized their changing political role with regard to the looming EU-membership. To secure their influence on the federal level they pressed for a structural reform of the federal system. The Landeshauptleute (state governors) made their approval for accession dependent on a successful reform of the federal system.<sup>26</sup>

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<sup>25</sup> As mentioned, in praxi the number of comments of the main Committee is low; furthermore they are formulated quite general.

<sup>26</sup> This reform is a rather curious thing: whereas the Länder asked for more participation in the EU-policy process and a general strengthening of the executive, the federal government made far reaching suggestions ranging from fiscal sovereignty in certain areas for the Länder, the strengthening of the regional parliaments, (Landtage) and even the set-up of Constitutional Courts in the Länder all of which was refused by the Länder. See Pernthaler, Peter/Schernthanner, Gert: `Bundesstaatsreform

On 8 October 1992 a "Political Agreement on the Reform of the Federal State" was signed between the Länder and the federal government (Luther 1997) which included a general commitment to a redistribution of competences in accordance with the principle of subsidiarity, a reform of the financial transfer system and the establishment of the Bundesrat (second chamber of the Austrian Parliament) as the representation of the Länder similar to the German model. A joint commission was to develop concrete proposals but no agreement was reached until today. The Landeshauptleute (state governors) removed the linkage after the overwhelming result of the referendum on Austrian EU-membership for not to be seen as responsible in case of the failing of the EU accession.

Concerning the Länder the federal government has been constitutionally bound to inform the Länder about all EU questions 'which affect their independent sphere of action or may otherwise be of interest to them' (Art 23d B-VG). The Länder can issue a simple or qualified opinion from which the government can still deviate for important integration reasons but it has to justify its decision within eight weeks. Additionally the federal government can transfer its participation in the EU-Council to a representative nominated by the Länder (Art 23d par 3; Schäffer 1996; Schambeck 1997; Rudolf 1997). Forseeing their shrinking influence without close co-operation the Länder founded the "Integration Conference of the Länder" comprising the Landeshauptleute (state governors) and the Standing Sub-Committee of the Länder. *In praxi* the Standing Sub-Committee only plays a marginal role since it is not provided with sufficient resources to cope with the enormous information overflow. Reflecting the strategy of the EU-Commission to bypass the federal governments some of the Austrian Länder have opened representation offices in Brussels in order to improve their chances for lobbying.

#### *The social partners and administrative agencies*

To compensate the social partners for their loss of influence in the Austrian European policy making the government parties 1994 agreed on the so-called 'Europaabkommen' (Agreement on Europe) which guaranteed them participation in 'important, for them relevant technical questions'. At first the federal government tried to secure their official involvement

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1994', in *Österreichisches Jahrbuch für Politik* 1994, Wien, Oldenburg/Verlag für Geschichte und Politik, 1995, pp. 559-595.

in the various working groups of the Council of the European Union. However, the equal participation in these groups failed because it would have been infringement of EC-law (Art 203 TEC) which states that only representatives of the government have the right of vote and speech (Karlhofer/Tálos 1996, p. 141).

The challenge for the Austrian administration has been twofold: first the implementation of the *acquis communautaire* in the Austrian legal system starting with the accession to the European Economic Area 1994 and intensifying with full-scale membership in the EU. In the eighties Siedentopf and Ziller (1988) have pointed to the importance of early preparation for the successful implementation of EC-law in the national legal systems. Since 1987 the Austrian federal government takes care of adapting the domestic legal system conforming to EC-law. For this purpose a guideline was issued which demands a check of all government bills regarding this conformity (Potacs 1998; Potacs/Pollak 1996, p. 733). With the Austrian accession to the European Economic Area around 1.600 EU-regulations have been taken over. However, the 1996 report of the Commission on the implementation of EC-law shows a total of 819 complaints about Austria which is an improvement of about 14 per cent compared with 1995 (1.145 cases)<sup>27</sup>. Unfortunately, in the same period the Austrian share of non-implemented or poorly implemented directives rose by 15 per cent. Concerning the implementation of inner-market directives Austria occupied the last position in 1996 and 1997. The reasons for this delay are manifold: the federal distribution of competences, the strict constitutional principle of legality which demands a legal determination for any state actions, and the still strong tradition of social partnership. Furthermore, the implementation of the *acquis* demanded far reaching changes in the Austrian economic administrative law. This occurred at the same time when a staff reduction in public administration was under way due to budgetary reasons (Potacs 1998; Holzinger 1997). In November 1997 10 per cent of the directives have been notified as not implemented. However, in May 1998 a big leap took Austria to the seventh position, only 5 per cent remained unsettled.<sup>28</sup>

Concerning Austria's applications for preliminary rulings of the European Court of Justice a significant growth can be regarded. In the first year of membership Austria asked for two, 1996 for 6 preliminary rulings. In comparison to Sweden and Finland this is quite a

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<sup>27</sup> KOM [97] 299 final; II.A.

<sup>28</sup> Press communiqué of the European Commission from 18 May 1998.

standard development (Sweden 1995: 6, 1996: 4; Finland 1995: 0, 1996: 3<sup>29</sup>). But in 1997 the Austrian cases multiplied to thirty-five whereas Sweden asked for four and Finland for six preliminary rulings.<sup>30</sup> One possible explanation might be that the awareness of the Austrian judges concerning the Community law is to a certain degree higher than that of the other new member state judges.

Secondly, a different challenge for the administration presents the participation in the policy-making process at the European level. The "high-light" in terms of workload and publicity was the Austrian presidency of the Council of the European Union in the second half of 1998 following the UK and preceding Germany. Since presidencies have significantly grown in importance throughout the last decades in terms of coordinating the European politics as well as in terms of enhancing the visibility of the Union, the Austrian presidency has been rather well prepared by the government administration. In order to cope with the everyday business of the presidency the administration created cooperation structures between all ministries installing a regular meeting of all high officials (Sektionsleiterkonferenz). The management of the presidency has been a success story, indeed. The same appears to be true of the public spectacle during the various formal and informal summits. Especially the "europeanization" of the public administration during the Austrian presidency of the Council of the European Union is an invaluable asset.<sup>31</sup>

However, as to the political achievements of this presidency, a more sceptical judgement is appropriate. The two main goals of the Austrian presidency can be summarized by the slogans proposed by the government: Austria aims at the role of an "honest broker" in the policy process and it wants to achieve greater "fitness" of the EU particularly in view of the next enlargement.

The list of projects ranging from to creation of jobs to the protection of the environment contained such a variety of important themes that one can hardly qualify them all as priorities

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<sup>29</sup> General Report on the Activities of the European Union, 1996, 1997, 1998.

<sup>30</sup> European Commission, General Report on the Activities of the European Union, 1996, p. 513, 1997, p. 481, 1998 p. 431.

<sup>31</sup> This fact was constantly stressed by senior officials of the Austrian administration during a conference hosted jointly by the Research Unit for Institutional Change and European Integration of the Austrian Academy of Sciences and the Austrian Institute for International Affairs on "The Austrian Presidency of the European Union: Assessment and Perspectives", Vienna 19-20.3.1999. Conference report forthcoming, available via: <http://www.iwe.oeaw.ac.at>

for a six month presidency. Furthermore these topics represented quite an unequal choice, the introduction of Euro being at that stage largely a technical issue, while the negotiations on the Agenda 2000 and the enlargement were objects of political controversy. During the opening ceremony though, the Austrian Chancellor Viktor Klima and the Vice-chancellor Wolfgang Schüssel put the accent mainly on enlargement, while the Minister of finance Rudolf Edlinger pointed to tax harmonization as being his priority.<sup>32</sup>

In terms of a first assessment of the Austrian EU-Presidency the following judgement could be formulated: Many of the points listed in the programme above have not resulted either in concrete policies or pioneer steps which perhaps could not be expected given the size of the problems underlying them. On the other hand one could ask whether the lack of success as e.g. to the Agenda 2000 was not also the logic result of a precarious assessment of the political and economic preconditions of some of the goals. In fact, the compromise of the Berlin summit shows that these preconditions did not allow for a serious reform of the financial system apt to accelerate EU-enlargement.

Disappointingly, the Austrian initiatives in the process of EU-enlargement towards Central- and Eastern Europe as well to Cyprus have not led to agreements about concrete time schedules. Beyond the Commission's screening the applicants' strategies of implementing the *acquis communautaire* and the achievements thereof, enlargement policy appears to lack a strong political will by the key players among the member states. This is partly due to the self-imposed budget constraints as a result of the Treaty of Maastricht as well as the stability pact, and partly to the urgent, yet unanswered need for institutional reforms. At the same time, the postponement of negotiations on the Agenda 2000 onto the German presidency was intimately linked to the question of enlargement. Interestingly, the Austrian "Programme of the EU-Presidency" touched upon this highly delicate issue only very vaguely in that it referred to the Conclusions of the Summit in Cardiff in June 1998 where a more equal distribution of the financial contributions by the member states is mentioned as being a matter of conflict. However, the Austrian Programme did not show any way out of the problem. Although expectations to find such indications in an official paper might be too high, one could speculate about the links between this omission and the lack of results at the Vienna summit in December 1998. Whether this lack of substantial results corresponds with the

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<sup>32</sup> See Financial Times, 2.7.1998 "Austria plans push for tax harmonisation", p.1.

traditional Austrian corporatistic system, avoiding conflict at any price, remains an open question.

### **III. Perspectives for the Future: The Persistence of Ambivalence?**

To assess the changes in the Austrian policy-making process induced by European integration is somewhat difficult due to the relatively short period of EU-membership. First, like all institutional change, the adaptation of national institutions, rules, norms and forms of behaviour to the European reality occurs at a rather slow pace. Second, such changes are all but easy to measure. Third, assessments which might hold true for some institutions cannot be simply applied to others. Fourth, in order to corroborate certain judgements on the changes occurring in the Austrian institutional arrangements more in-depth studies on different dimensions of the transformation process are still needed.

The easiest part of the task of describing the changes Austria has undergone since the beginning of EU-membership in 1995 is that concerning constitutional amendments. Due to the specific power constellation after the national election of 1994 in which the governing parties lost their two-third majority the opposition parties won the game in the negotiations on the role of the Parliament in the EU policy making process. However, what appeared to be a victory of the legislature over the executive quite quickly turned into a fake in reality. This happened for two reasons: one being grounded in the fact that the Main Committee of the Parliament has been overwhelmed by the sheer quantity of EU-proposals it has to deal with; the other one being constituted by the "power of tradition" whereby the members of Parliament belonging to the ruling parties would uphold government positions without further much ado. Thus, for the time being the Austrian situation reflects the developments occurred in most of the member states in that European policy-making is the privilege of the executive.

As to more general changes in the decision-making process including the whole set of intermediary powers the assessment necessarily remains more speculative. As has been stated above the system of social partnership being the main pillar of the Austrian type of consociational democracy has been put under considerable pressure. It is, however, important to notice that due to international competition at least part of the strain surfaced in the mid-eighties already. Thus, the changes of Austrian political and economic elites as to EU-



membership may also be interpreted as a strategy to cope with more general developments on the global markets. Moreover, the shifts in economic ideology within the Social Democratic party towards greater liberalism as well as the change in leadership from Bruno Kreisky to Franz Vranitzky<sup>33</sup> who downplayed the international role of neutral Austria have to be considered as well. As to the changes in social partnership though some differentiations have to be made. While it is safe to assess that the system of compromise building between capital and labour has lost much of its attraction, EU-membership provoked interesting shifts of power within the institutional arrangement of social partners: those representing large industries which had emerged through privatisation grew in importance at the expense of those lobbying for middle and small business. With regard to those representing labour interests it can be said that the traditionally powerful Austrian union (Österreichischer Gewerkschaftsbund) has been stripped of power in particular when negotiating the budgets 1996 and 1997/98 designed to fulfill the convergence criteria of Maastricht. For the first time in the history of the Second Republic, agents of labour representation have not been involved from the outset but only after they had expressed considerable protest against the new procedures. But extrapolating from this experience a more general assumption about the end of Austrian corporatism might turn out as a doubtful exaggeration.

The most impressive change in Austrian institutions appears to be pertinent to the party system. Yet, here again, a cautionary tale has to be told in that the erosion of the two-party system due to the growth of a strong third one (FPÖ) and to the emergence of two smaller ones (Greens and LIF) is only in part linked to the Europeanisation of the Austrian policy-making process. The persistent growth in the nineties of the "New" Radical Right incarnated in the FPÖ from previous 5-6% up to some 25% on the federal level and to the sensational 42% in a provincial election in 1999 has to be assessed also in view of the anti-European stance of this party. The success story of the FPÖ is also due to the fact that the enthusiasm professed by the Austrian citizens in the referendum on EU-membership in 1994 rather quickly declined in the wake of the restrictive budget policy compelled by the construction of EMU. The big parties ruling the state in a "grand coalition" failed to control their electorate by neglecting the need for a truly public European discourse. As a matter of fact, after they had won the referendum "Europe" disappeared from their communication with the public and only came back during their EU-presidency in the second half of 1998. In

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<sup>33</sup> Although the period of the so-called small coalition of SPÖ and FPÖ under chancellor Fred Sinowatz has been relevant for certain domestic reasons, it may be dropped from our considerations in

terms of public discourse though the presidency was dominated by show elements rather than by strategies of enlightenment about the nature of the supranational polity.

However, the presidency produced important results with regard to the Europeanization of the Austrian administration. The presidency has been professionally organised and involved quite larger parts of the bureaucracy than had previously been the case. As one high official of the Ministry of Foreign Affairs explained in a conference held in March 1999 on the outcomes of the presidency, in that six months' period the Austrian actors did not „make the Union fitter for the future“ – as was stated by a poster slogan of the government -, but the intensive involvement in European affairs made the Austrian bureaucracy „fit for the Union“. <sup>34</sup> The professionalization of the administration though was reached at the expense of clear political strategies with regard to the important questions challenging the Union at the time such as the Agenda 2000 or the institutional reform. It was another high official taking part in the above-mentioned conference who diagnosed a certain lack of courage in the Austrian political elite when negotiating the Agenda 2000.

Moreover, the Austrian EU-presidency was marked by an ambivalent attitude towards EU-enlargement in that a special commitment was pronounced in public and seemingly counterveiled in action. The ambivalence is also the result of the growing Radical Right in Austria which is fiercely opposing EU-enlargement.

Less visible though not less important are the changes of the Austrian judiciary in implementing the European legal order superseding the national order. The studies available in this field show that some of the implementation difficulties may be described as pertaining to any legal reform. However, other difficulties appear to be specific to the Europeanization of the judicial activity. In particular, resistance to or neglect of European laws is repeatedly argued by the fact that these laws contradict the principle of legality dominating the Austrian system. Thus, experts in EC-law warn against the increasing lack of legal certainty. Here again, further in-depth studies are needed in order to assess the quantity and the quality of non-compliance.

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this text.

<sup>34</sup> Stefan Lehne in his speech at the Conference „Austria's EU-presidency. Assessments and Perspectives“, Austrian Academy of Sciences, March 19-20, 1999; See footnote 31.

With regard to the changes Austria has undergone since the beginning of its EU-membership, one final remark has to be made about the elections to the European Parliament in June 1999. The results underline Austrian ambivalences as to the European Union. Turnout was perilously low when compared to turnouts in national elections, with 49% it corresponded to the EU-average though. Interestingly, the very visible and controversial election campaign did not lead to a greater interest of the public in EU institutions. 20% of the non-voters questioned in a survey mentioned the unimportance of the EU-Parliament as a reason for their voting abstinence. However, most of the competing parties considered the election as a rehearsal for the next national election in October 1999 and failed to define their themes in European terms. In view of the war in Yugoslavia, neutrality largely dominated the campaign positively as well as negatively. While the Social Democrats and the Greens argued in favour of neutrality which made them both successful, the People's Party, the FPÖ and the Liberals denied the importance of the subject in a European election. However, one significant change occurred in this debate at least in terms of rhetoric: the shift from discourses on NATO-membership professed by the three latter parties to a discourse enhancing the need of a European security system independent from NATO. Interestingly, EU-enlargement did not play a great role not even in the positions of the Radical Right which in fact and contradicting most opinion polls lost 4% compared to the last European election of 1996.

By way of conclusion, it can be said that a clear cut judgement on the form and degree of the transformation of the Austrian political and economic system through European integration is far from being possible. As to the question whether the political system has been transformed from consociational to competitive democracy two answers are proposed here: the first one pointing to the fact that at least part of this transformation occurred before EU-membership although the rise of the FPÖ can also be interpreted as a reverberation of a more general European development of the Radical Right; the second answer is driven by a more skeptical view of the sustainability of this change. The same holds true for the attitude towards European integration: While on a macro-level the commitment to the European Union is still impressive, on the micro-level real change and adaptation to the new order are difficult to measure. The power of tradition continues to influence the mentality and behaviour not only of ordinary people but also of the elites in politics, economy, the judiciary and the scientific community. However, avantgardes can be designated in all these fields as

well. It may well take another five years in order to tell whether the avantgardes were able to become the gravitational centre of a sustainable process of transformation.

## Select Bibliography

- Bergmann, Torbjörn: "National Parliaments and EU Affairs Committees: Notes on Empirical Variation and Competing Explanations", *Journal of European Public Policy*, 4, 1977, pp. 373-387.
- Bischof, Günter/Pelinka Anton (eds.), *Austro-Corporatism. Past, Present, Future. Contemporary Austrian Studies*, Vol. 4, New Brunswick/London, Transaction Publ., 1996.
- Bruckmüller, Ernst, *Österreichbewußtsein im Wandel. Identität und Selbstverständnis im Wandel*, Vienna, Signum, 1994
- Falkner, Gerda/Müller Wolfgang C. (eds.), *Österreich im europäischen Mehrebenensystem. Konsequenzen der EU-Mitgliedschaft für Politiknetzwerke und Entscheidungsprozesse*, Wien, Signum, 1998.
- Gehler Michael/Kaiser Wolfram, (1997), "A Study in Ambivalence: Austria and European Integration 1945-95", *Contemporary European History*, Vol.6 (1), 1997, pp. 75-99.
- Gehler Michael/Steininger Rolf, (eds.), *Österreich und die europäische Integration 1945-1993. Aspekte einer wechsellvollen Entwicklung*, Wien/Köln/Weimar, Böhlau, 1993.
- Gerlich, Peter, 'Regierungspolitik und Europäische Union', in Gerlich, Peter/Neisser, Heinrich (eds.), *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Wien, Signum, 1994, pp. 71-111.
- Gerlich, Peter, 'Farewell to Corporatism', in Luther, Kurt R./Müller, Wolfgang C. (eds.), *Politics in Austria: Still a Case of Consociationalism?*, London, Cass, 1992, pp.132-146.
- Granel, Francisco , "The European Union's Enlargement Negotiations with Austria, Finland, Norway and Sweden", *Journal of Common Market Studies*, Vol.33 (1), 1995, 117-41.
- Griller, Stefan, "Zur demokratischen Legitimation der Rechtsetzung in der EU", *Journal für Rechtspolitik* 3, 1995, pp. 164-179.
- Holzinger, Gerhart, 'Umsetzung und Anwendung des Gemeinschaftsrechts in Österreich', in Magiera, Siegfried/Siedentopf Heinrich (eds.), *Die Zukunft der Europäischen Union*, Berlin, Duncker & Humblot, 1997, pp. 87-104.
- Hummer, Waldemar/Schweitzer, Michael, *Österreich und die EWG. Neutralitätsrechtliche Beurteilung der Möglichkeit der Dynamisierung des Verhältnisses zur EWG*, Vienna, Signum, 1987.
- Jankowitsch, Peter, 'The process of european Integration and Neutral Austria', in Harden, Sheila (ed.), *Neutral States and the European Community*, London, Brassey's, 1994, pp. 35-62
- Kaiser, Wolfram, "Die EU-Volksabstimmungen in Österreich, Finnland, Schweden und Norwegen: Folgen für die Europäische Union", *Integration*, Vol. 18 (2), 1995, pp. 76-87.
- Kaiser, Wolfram, "Austria in the European Union", *Journal of Common Market Studies*, Vol.33 (3), 1995, pp. 411-425.
- Karlhofer, Ferdinand/Tálos, Emmerich, *Sozialpartnerschaft und EU. Integrationsdynamik und Handlungsrahmen der österreichischen Sozialpartnerschaft*, Wien, Signum, 1996.

- Karlhofer, Ferdinand/Tálos, Emmerich (eds.), Sozialpartnerschaft. Wandel und Reformfähigkeit, Wien, forthcoming 1999.
- Khol, Andreas, 'Demokratieabbau durch EU-Regierungsgesetzgebung?', in Österreichische Parlamentarische Gesellschaft (ed.), Festschrift 75 Jahre Bundesverfassung, Wien, Verlag Österreich, 1995, pp. 273-288.
- Kramer, Helmut, 'Austrian Foreign Policy from the State Treaty to European Union Membership', in Luther Kurt R./Pulzer, Peter (eds.), Austria 1945 – 1995, Dordsmouth, Aldenshot, 1996, pp.161-180.
- Kreissler, Felix, Der Österreicher und seine Nation. Ein Lernprozeß mit Hindernissen, Vienna, Böhlau, 1984.
- Lantis, Jeffrey S./Queen, Matthew F., "Negotiating Neutrality: The Double-Edged Diplomacy of Austrian Accession to the European Union", Cooperation and Conflict, Vol. 33 (2), June 1998, pp. 152-182.
- Lauber, Volkmar (ed.), Contemporary Austrian Politics, Boulder Col, Westview 1996.
- Luther, Kurt R., 'Bund-Länder Beziehungen: Formal- und Realverfassung', in Dachs, Herbert et.al. (eds.), *Handbuch des Politischen Systems Österreichs. Die Zweite Republik*, Vienna, Manz, 1997, pp. 907-919
- Mayrzedt, Hans/Hummer, Waldemar (eds.), 20 Jahre österreichische Neutralitäts- und Europapolitik (1955-1975), Vienna, Braumüller, 1976.
- Morass, Michael, (1996), Österreich im Entscheidungsprozess der Europäischen Union. In Tálos, Emmerich/Falkner, Gerda (eds.), EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz, Wien, Manz, 1996, pp 32-49.
- Neisser, Heinrich, 'Parlamentsreform und Europäische Union', in Gerlich, Peter/Neisser, Heinrich (eds.), Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs, Wien, Signum, 1994, pp. 43-69.
- Neisser, Heinrich, 'Die Mitwirkungsbefugnisse des Nationalrates im Entscheidungsprozeß der Europäischen Union', in Schäffer, Heinz et.al. (eds.), *Staat – Verfassung – Verwaltung. Festschrift für Friedrich Koja*, Vienna/New York, Springer 1998, pp. 335-355.
- Österreichische Juristenkommission (ed.), Kritik und Fortschritt im Rechtsstaat. Österreich in der EU, Vienna, Verlag Österreich, 1996.
- Pelinka, Anton (ed.), EU-Referendum. Zur Praxis direkter Demokratie in Österreich, Wien, Signum, 1994.
- Pelinka, Anton, Austria. Out of the Shadow of the Past, Boulder Col., Westview, 1998.
- Pernthaler, Peter/Schernthanner, Gert: 'Bundesstaatsreform 1994', in Österreichisches Jahrbuch für Politik 1994, Wien, Oldenburg/Verlag für Geschichte und Politik, 1995, pp.559-595.
- Pollak, Johannes/Puntscher Riekmann, Sonja, "Austria and the EU. From Nation State to Member State", in Journal of International Relations and Development, forthcoming summer 1999.
- Potacs, Michael, "Erfahrungen eines neuen Mitgliedstaates im Hinblick auf die europäische Rechtseinheit – das Beispiel Österreichs", Europarecht, suppl.1, 1998, pp- 59-71.

- Potacs, Michael/Pollak, Christian, 'Österreichischer Landesbericht', in Schwarze, Jürgen (ed.), *Das Verwaltungsrecht unter europäischem Einfluss*, Baden-Baden, Nomos, 1996, pp. 733-785.
- Puntscher Riekmann, Sonja, "Political and Socio-Economic Conditions of a Constitutional Debate in the European Union", *Die Union*, No.4, 1998, pp.225-232.
- Puntscher Riekmann, Sonja, 'The politics of Ausgrenzung, the Nazi-Past and the European Dimension of the New Radical right in Austria', in Bischof, Günter/Pelinka, Anton/Karlhofer, Ferdinand (eds.), *The Vranitzky Era in Austria*, New Brunswick/London, Transaction, 1999, pp.78-105.
- Rudolf, Wilhelm, 'Die Mitwirkung der Länder bei der Willensbildung in Europa', in Dörr Dieter/Dreher, Meinrad (eds.), *Europa als Rechtsgemeinschaft*, Baden-Baden, Nomos, 1997, pp. 33-52.
- Schaller, Christian, 'Zur Diskussion um den österreichischen EU-Beitritt', in Tálos, Emmerich/Falkner, Gerda (eds.), *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, Vienna, Manz, 1996, pp. 17-32.
- Schambeck, Herbert, *Regierung und Kontrolle in Österreich*, Berlin, Duncker & Humblot, 1997.
- Schäffer, Heinz, "Österreichs Beteiligung an der Willensbildung der Europäischen Union, insbesondere an der europäischen Rechtssetzung", *Zeitschrift für öffentliches Recht* 50, 1996, pp. 3-73.
- Schneider, Heinrich (1990), *Alleingang nach Brüssel. Österreichs EG-Politik*, Bonn, Europa Union, 1990.
- Siedentopf, Heinrich/Ziller, Jacques (1988), *L'Europe des Administrations? La mise en oeuvre de la législation communautaire dans les Etats Membres*, Brussels, Bruylant, 1988.
- Tálos, Emmerich, 'Interessenvermittlung und Interessenkonzertierung', in Gerlich, Peter/Neisser, Heinrich (eds.), *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Vienna, Signum, 1994, pp. 159-184.
- Tálos, Emmerich/Falkner, Gerda (eds.), *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, Wien, Manz, 1996
- Wieser, Thomas/Kitzmantel Edith, *Austria and the European Community. Journal of Common Market Studies*, Vol.28 (4), 1990, pp. 431-49.