

# Fundamentals of German European Policy

Katrin Böttger / Mathias Jopp

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## Abstract

This first paper of the new **German European Policy Series (GEPS)** provides an overview of the evolution of German European Policy. The authors Katrin Böttger and Mathias Jopp argue that even though German European Policy – against the backdrop of numerous crises – has proven to be of a pragmatic, flexible nature, it nevertheless has largely maintained baselines of continuity. The paper reflects on how membership in the European Union has shaped Germany's capacity to act in the world over the past decades and outlines *leitmotifs* of Germany's European Policy.

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# Fundamentals of German European Policy

Katrin Böttger / Mathias Jopp

Germany's European Policy has largely been shaped by continuity – despite the fact that it has become more pragmatic in nature over the last 10 to 15 years and the numerous crises it faces, such as the financial and European debt crisis, the refugee crisis and Brexit.<sup>1</sup> In the following we will place emphasis on the significance of the European Union for Germany, how membership in the European Union strengthens Germany's capacity to act in today's globalised world, and how the country is using its weight in trying to shape the EU and its policies in accordance with its needs.

## 1. Politicisation of Germany's European Policy

European Policy in Germany, like elsewhere in Europe, has undeniably been politicised. This process began in the early 1990s, in the context of the negotiation and the ratification of the Treaty of Maastricht. The deepening of European integration through the Single Market, the introduction of the common currency, and the expansion of majority voting in the Council of the European Union, in combination with the elevation of the European Parliament vis-à-vis national parliaments, among other developments, had gradually changed the image of the European Union. EU-related topics became increasingly subject to public debates and scrutiny all over the EU. In many cases, the 'permissive consensus' gradually gave way to a 'constraining dissensus'.<sup>2</sup> The verdicts of the German Federal Constitutional Court, as well as the debates about the

Euro and the subsidiarity principle during the treaty reforms of Amsterdam and Nice in the second half of the 1990s, only contributed to this politicisation and to a more critical perception of European integration of the EU. Due to the ratification of the Charter of Fundamental Rights, attempts to establish a European constitution and the successful introduction of the Euro, the early 2000s were marked by recurring stronger public support for the European Union in Germany.

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*“Today, an effective European policy requires an unprecedented effort of public persuasion and cooperation among numerous actors.”*

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However, political controversies surrounding European integration continued. These were epitomised by the failure of the Constitutional Treaty in 2005, as well as by critical public debates about secondary EU legislation (such as the services directive). The economic and financial crisis (since 2008) caused a notable deterioration of public support for the European Union. Eurosceptic tendencies and, accordingly, the politicisation of Germany's European policy were reinforced by the necessity to ratify bailout packages from 2010 onwards, by nascent controversies revolving around the transatlantic free trade agreement 'TTIP' and, finally, the refugee crisis in 2015. European Policy has consequently become an integral part of domestic politics and the executive is no longer the exclusive actor in this realm. Today, an effective European policy requires an unprecedented effort of public persuasion and cooperation among numerous actors. Moreover, the arrival of the *Alternative für Deutschland* (AfD) as an openly eurosceptic party constitutes a cae-

1 See Heinrich Schneider/Mathias Jopp/Uwe Schmalz (eds.): *Eine neue deutsche Europapolitik? Rahmenbedingungen – Problemfelder – Optionen*, Bonn 2001.

2 See Wilhelm Knelangen: *Ende des europapolitischen Gleichklangs? Die öffentliche Meinung zur europäischen Integration in Deutschland*, in: Katrin Böttger/Mathias Jopp (eds.): *Handbuch der deutschen Europapolitik*, Baden-Baden 2016, pp.201-214.

sure for German politics, historically dominated by Europhile parties. The right-wing, national-conservative party recently achieved significant electoral successes in regional state elections, and national opinion polls suggest that the AfD's popularity ranks at about 7% - 11%. The AfD thus threatens to become a serious force in German politics. This has a significant impact on political discourse vis-à-vis the European Union in Germany.

## 2. Parameters of Germany's European Policy

An understanding of Germany's European Policy requires an introduction to its fundamental guiding parameters. On the surface, many political decisions may appear improvised and ad-hoc in nature, enacted in order to positively influence the outcome of elections in one or more of the 16 *Länder* of the Federal Republic (which are not synchronized with each other nor with the general elections to the German Parliament). However, most EU activities are guided by strategic considerations and conceptions of Europe, as well as the role of Germany on the continent.<sup>3</sup>

Due to Germany's history and the World Wars, a policy of reconciliation through integration (particularly with France, but also with Poland) and full alignment with the West constitute central pillars of Germany's foreign and European Policy. Economic integration through the EU's Single Market and a Common Trade Policy, from which Germany has profited more than most other EU member states, is fully in line with the country's self-perception as a civilian power and a trading power. Germany's reluctance when it comes to military and crisis management outside the NATO

treaty area or within the framework of the Common Security and Defence Policy of the EU also fit into this picture.

Germany's policy in shaping the Single Market and the European Economic and Monetary Union (EMU) follows clear guiding principles of ordoliberalism regarding competition and monetary policy.<sup>4</sup> These include the insistence on a supranational competition authority (here the European Commission), and an independent European Central Bank with a mandate to maintain price stability and individual member states' liability. These principles provide the context for the German Federal Government's actions during the Eurozone crisis.<sup>5</sup>

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*“The leitmotif of the 'United States of Europe' had been important from the early beginnings of European integration all the way up until the early 1990s.”*

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Beyond this general framework of Germany's Foreign and European Policy, there are more specific objectives for the European integration process.<sup>6</sup> The *leitmotif* of the “United States of Europe” had been important from the early beginnings of European integration all the way up until the early 1990s.<sup>7</sup> Since then its importance faded and the verdicts of the constitutional court, which qualified the European Union as an association of states (*Staatenverbund*) rather than a federal union, weakened the old vision of Europe. However, the objective of ‘supranationalisation’ via

3 See Martin Große Hüttmann: Leitbilder deutscher Europapolitik, in: Katrin Böttger/Mathias Jopp (eds.): *Handbuch der deutschen Europapolitik*, Baden-Baden 2016, pp. 31-44.

4 See Ansgar Belke: Die WWU als Prozess ‚grand political bargains‘ zwischen Deutschland und seinen EU-Partnern, pp. 261-280.

5 See Hans-Wolfgang Platzer: *Deutschland und die Europäische Sozialpolitik*, pp. 329-340, here p. 330 and p. 338; Sebastian Dullien/Ulrike Guérot: *The long shadow of ordoliberalism: Germany's approach to the euro crisis*, European Council on Foreign Relations, Policy Brief, 2012.

6 See Mathias Jopp/Andreas Maurer/Heinrich Schneider (eds.): *Europapolitische Grundverständnisse im Wandel*, Bonn 1998.

7 See Walter Hallstein: *Der unvollendete Bundesstaat. Europäische Erfahrungen und Erkenntnisse*, Düsseldorf/Wien 1969.

communitarisation of EU policies and the structuring of Europe along federal principles – while respecting subsidiarity – has dominated German thinking on the European Union.

The strengthening of EU institutions (first and foremost the European Parliament) and the expansion of majority voting to more policy fields in the Council of the European Union are integral to this view. This view has guided Germany's European Policy from the intergovernmental conferences on the Treaties of Amsterdam and Nice to the plans for a Constitutional Treaty in the early 2000s and the negotiations on the Treaty of Lisbon. During the European financial debt crisis, the German Chancellor Merkel used the so-called 'Union method', based on intergovernmental elements of crisis management and arrangements outside of the existing treaties.<sup>8</sup> However, the Union method complemented, rather than replaced, the Community method.

The Union method implies that, whenever there are no legal provisions within the treaty framework and even marginal contractual adjustments are opposed by individual member states (so far by the United Kingdom in particular), arrangements outside the existing treaties will be made with those states that are willing to push integration further. Past examples include the Schengen Agreement, the Protocol on Social Policy and the Charter of Fundamental Rights of the European Union. The rationale behind many of these initiatives is to eventually incorporate them into the treaty framework; the European Fiscal Compact of 2012, concluded outside of the Union treaties for stronger budgetary discipline of Euro-countries, for example, is expected to become part of the treaty framework within five years.<sup>9</sup> Since Willy Brandt coined the

concept of differentiated integration in the 1970s, and since Schäuble and Lamers proposed the notion of a 'Kerneuropa' in the 1990s,<sup>10</sup> the EU member states have also been trying to establish legal provisions within the treaties that would enable deeper integration for willing member states. Rather than excluding slower members, the motive of a multi-speed Europe is to grant them more time to follow suit based on an 'Avantgarde-model'.<sup>11</sup> The stronger intergovernmental nature of 'Enhanced Cooperation' procedures, if used as designed in the treaties, is accepted as a necessary evil.

While in recent years Germany has occasionally relied on intergovernmental cooperation (since larger member states can exercise greater influence), one should not overemphasise this element of German European Policy. It is true that intergovernmental solutions provide for a direct string of legitimacy between the decisions of the Federal Government at the European level and the German Bundestag. An intergovernmental Europe, however, has clear disadvantages: it suffers from slow decision-making given the need for unanimity, as well as weak enforcement of intergovernmental agreements. Moreover, Germany has benefitted largely from its orientation towards the communitarian model. This model has not only proven to be the most favoured treaty reform since the Single European Act, it has also helped to embed Germany in European structures and make its European partners feel effectively reassured.<sup>12</sup> Further, Germany's self-binding interest has contributed substantially to the stability and development of the Community system, which is considerably more efficient than intergovernmental cooperation.

8 See speech by Chancellor Merkel 2.11.2010, available at: <https://www.bundestkanzlerin.de/ContentArchiv/DE/Archiv17/Reden/2010/11/2010-11-02-merkel-bruegge.html> (accessed: 18.4.2016).

9 See Ministry of Finance: Vertrag über Stabilität, Koordinierung und Steuerung in der Wirtschafts- und Währungsunion (SKS-Vertrag), Brussels, 2.3.2012, Art. 16, available at: [http://www.bundesfinanzministerium.de/Content/DE/Downloads/2013-04-19-fiskalvertrag-deutsche-fassung.pdf?\\_\\_blob=publicationFile&v=3](http://www.bundesfinanzministerium.de/Content/DE/Downloads/2013-04-19-fiskalvertrag-deutsche-fassung.pdf?__blob=publicationFile&v=3) (accessed: 21.4.2016).

10 See CDU/CSU: Überlegungen zu europäischen Politik, 1.9.1994, available at: <https://www.cducusu.de/upload/schaeublelamers94.pdf> (accessed: 18.4.2016).

11 See Joschka Fischer: Vom Staatenbund zur Föderation – Gedanken über die Finalität der europäischen Integration, in: *integration* 3/2000, pp. 149-156.

12 See Peter J. Katzenstein: United Germany in an Integrating Europe, in: Peter J. Katzenstein (eds.): *Tamed Power. Germany in Europe*, Ithaca (NY) 1997, pp. 1-48.

The integration of Germany into the European Community, and later into the transatlantic community, constitutes the fundamental guiding principle of the policy of all German governments. After the Second World War, the express objective of European supranationalisation and the constitutionally-bound obligation to integrate into Europe were crucial for regaining the trust and acceptance of other European nations and for keeping integration open to achieve full national sovereignty over a united country. Hence, from a German perspective, European integration did not entail the renunciation of sovereignty, but was rather a means of reclaiming it.<sup>13</sup> The course of history answered the old question of whether Germany's partition would be deepened and cemented through integration into the West or whether it was necessary to enable the eventual reunification.<sup>14</sup>

Negotiations for the creation of the European Union within the framework of the Maastricht Treaty and for a common currency, which commenced shortly after German reunification, played a key role in creating acceptance for German unity. The abolition of the *Deutschmark* calmed French fears, as the common currency was widely conceived as weakening its newly-expanded neighbour. Likewise, the still-existing USSR accepted reunification given Germany's character as a civil power and the non-hegemonic nature of the European Community/European Union.

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*“For Germany, European integration had proven to be a success story.”*

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13 See Gisela Müller-Brandeck-Bocquet: Europapolitik als Staatsräson, in: Manfred G. Schmidt/Reimut Zohlnhöfer (eds.): *Regieren in der Bundesrepublik Deutschland. Innen- und Außenpolitik seit 1949*, Wiesbaden 2006, pp. 467-490.

14 See Timm Beichelt: *Deutschland und Europa, 2015*, p. 131ff.; Wilfried Loth: *Europas Einigung. Eine unvollendete Geschichte*, Frankfurt/New York 2014, pp. 26-119; Heinrich August Winkler: *Der lange Weg nach Westen. Deutsche Geschichte vom „Dunklen Reich“ bis zur Wiedervereinigung*, 5. ed., München 2010.

With the cessation of the Occupation Statute after the Two Plus Four Agreement was signed, thereby sealing German reunification, the question of Germany's future role in Europe emerged. Would Germany, having reached its principle objective of regaining national unity and national sovereignty, be prepared to delegate sovereign prerogatives to the European level and remain a committed member of the European Community to the same extent as before? Would it become a 'normal' member state,<sup>15</sup> pursuing its national interests at all times, or even seek to return to its hegemonic position on the continent?

### 3. Self-binding and pragmatism

The interest in tying Germany into European structures has largely coincided with Germany's readiness towards European self-binding. However, Germany's motives for pursuing European integration have partially changed. After achieving reunification, its focus shifted towards overcoming the division of Europe and reuniting the continent in the framework of European integration. From a German perspective, this primarily meant achieving reconciliation with Poland, developing new markets in Central-Eastern Europe following the collapse of the communist regimes.

For Germany, European integration had proven to be a success story. The country had benefitted economically, and the European institutions operated rather smoothly in spite of the historically unique experiment of merging supranational and intergovernmental structures. Germany's own awareness of its new status as a fully sovereign, reunited country emerged only slowly. A first attempt, however, to materialise its new political clout by recognising Slovenia and Croatia three weeks before its European partners – a

15 See Simon Bulmer/William E. Paterson: Germany and the European Union: from 'tamed power' to normalized power?, in: *International Affairs* 5/2010, pp. 1051-1073.

means to increase the pressure to deploy UN blue helmets within former Yugoslavia – caused some irritation in other Member States during the breakup of the Yugoslav federation. And of course, it was Germany's unwillingness to contribute any troops to the UN's military mission (UNPROFOR) which strengthened scepticism among its partners.<sup>16</sup> Apart from this issue, reunification did not substantially alter the course of Germany's European Policy. It was more so conflicting interests in realising its national interests within and through the European Union which came to the forefront.

Germany had always been following its own interests, but after reunification this became more obvious, notably after Gerhard Schröder became Chancellor and stressed his pragmatic approach towards Europe. At the same time, Foreign Minister Joschka Fischer's initiative to reinvigorate the project of a European constitution, backed by Chancellor Schröder, expressed Germany's readiness to commit to European integration with a large portion of idealism.

Nevertheless, in reference to the restrictive role of Germany during the EU budget negotiations or its attempts to push through particular interests (for example, its interests in the automotive industry), observers have identified a 'normalisation' of the country's foreign and European Policy, and attributed to it a greater degree of 'realism' or 'pragmatism'. Germany's continuous readiness to commit itself to a strong European integration can be largely explained by its experience of being able to shape EU integration successfully, and by learning that through the European Union's market power and common currency, Germany can exercise influence in an increasingly interdependent and multipolar world. This understanding coincides with the appreciation of the European Union's political clout in the global competition over raw materials and export markets. Furthermore, and in

accordance with its interest-based pragmatism, Germany tends to resort to the European Union whenever it is beneficial; it otherwise relies on other means, i.e. actions through different multilateral organisations such as NATO or the Organization for Security and Cooperation in Europe (OSCE). The crucial difference between these organisations and the European Union is that the latter constitutes the 'preferred framework for pursuing national preferences and interests'. Unlike in NATO, dominated by the United States, or the United Nations, where Germany is not a permanent member of the Security Council, the Federal Republic enjoys a much greater say in the European Union.

## 4. The German hegemon?

In the context of the financial crisis in the Eurozone, discussions about German hegemony resurfaced.<sup>17</sup> In Italy, the notion of the 'Fourth Reich'<sup>18</sup> emerged, while in Germany discussions resurfaced about the old 'Zentralmacht' (central power) concept.<sup>19</sup> In 'Macht in der Mitte'<sup>20</sup> (power in the centre), Münkler emphasised Germany's responsibility for the deepening and functioning of European integration, based on its size and central geographical location. Yet the debate about German hegemony remains futile, as the country lacks the will and capacity of a hegemon – namely to provide public goods and military protection to others. Within the intergovernmental setting of the financial crisis management in the Eurozone, Germany, due to its economic weight, was the most crucial actor. But the role played by Germany can be better characterized as a veto player rather than as a hegemon.

<sup>16</sup> See Mathias Jopp (ed.): *The Implications of the Yugoslav Crisis for Western Europe's Foreign Relations*, Chaillot Papers 17, Paris 1994; Mathias Jopp: *The strategic implications of European integration*, London 1994.

<sup>17</sup> See Simon Bulmer/William E. Paterson: *Germany as the EU's reluctant hegemon? Of economic strength and political constraints*, in: *Journal of European Public Policy* 10/2013, pp. 1387-1405.

<sup>18</sup> See Vittorio Feltri/Gennaro Sangiuliano: *Il Quarto Reich. Come la Germania ha sottomesso l'Europa*, Milano 2014.

<sup>19</sup> See Hans-Peter Schwarz: *Zentralmacht Europas. Deutschlands Rückkehr auf die Weltbühne*, München 1998.

<sup>20</sup> Herfried Münkler: *Macht in der Mitte. Die neuen Aufgaben Deutschlands in Europa*, Hamburg 2015.



## 5. Europeanisation

The degree of Germany's Europeanisation illustrates the futility of the debate on German hegemony. Germany is deeply entrenched in the European Union in numerous policy fields.<sup>21</sup> Since the Maastricht Treaty and, most recently, the Lisbon Treaty, the European Union has become an important pillar of Germany and, in return, Germany has become an important pillar of the European Union. The integration of Germany into the European Union has been working to such an extent that, in many policy areas, it is difficult to say what is German policy versus European policy and vice versa. Evidence for this can be found in the following policy areas: (1) the competition policy of the Single Market, which eventually induced even the most powerful German energy suppliers to adjust to the demands of the European Commission; (2) the environmental policy, which Germany has pushed since the 1980s, but has also attempted to block – or at least water down – particularly when specific interests of the German automotive industry were threatened; (3) the asylum and visa policy, which prior to the refugee crisis was met with rather lukewarm support in Germany, but has since become a policy priority, notably on the issue of redistribution of refugees based on quotas; (4) consumer protection, in which Germany has been at times either an engine or braking force; and (5) the European monetary policy, which has incrementally deviated from German expectations, norms and ideas detrimental to Quantitative Easing. The deep involvement in EU affairs becomes further apparent in the Europeanisation of German interest groups, the Bundestag after Maastricht and Lisbon<sup>22</sup> and the attempts of the constitutional court to establish a collaboration with the European Court of Justice

21 Wolfgang Wessels: An ever closer fusion? A dynamic macropolitical view on integration processes, in: JCMS: Journal of Common Market Studies 2/1997, pp. 267-299.

22 Axel Schäfer/Fabian Schulz: Der Bundestag wird europäisch – zur Reform des Beteiligungsgesetzes EUZBBG, in: *integration* 3/2013, pp. 199-212.

in matters of legal disputes over the exercise of sovereignty transferred to the European level. Finally, there are the German *Länder*, which have developed some resistance towards further Europeanisation, while on the other hand, obtaining legal rights to participate in the decision-making processes on European affairs, allowing them to safeguard their competences in the fields of education and interior policy, as well as public services, based on article 23 of the basic law.

## 6. Shaping the political system of the European Union

Europeanisation, however, is not a one-way street. Like no other member state, Germany has shaped, influenced and, through the constitutional court's verdicts, restricted the development of the polity of the European Union. The design of the Single Market and the competition regime constituted early examples of successful 'uploading' of German interests to the European Union. German ideas to democratise European law-making were also crucial in enhancing the European Parliament's role as a co-legislator together with the Council; this was affected by introducing the co-decision procedure (Treaty of Maastricht) and subsequently, the ordinary legislative procedure (Treaty of Lisbon).

The design of the Economic and Monetary Union also rests heavily on German preferences. The European Central Bank mirrors the structures and tasks of the German *Bundesbank*, notably in terms of its independence and commitment to price stability. That German interests could be undermined by deflation risks, persistent economic stagnation in some member states and a voting system on the Governing Council of the European Central Bank which was, under certain conditions, unfavorable for Germany, was largely dismissed at the time. As long as the European Central Bank remained independent and adhered to

its mandate of maintaining price stability, it was not regarded as problematic. The extent to which appeals to restrict the bank's policy of Quantitative Easing will have any impact remains to be seen.<sup>23</sup>

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*“...Germany’s capacity to shape the political system of the European Union has manifested itself in the Common Foreign and Security Policy (CFSP).”*

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Last but not least, Germany's capacity to shape the political system of the European Union has manifested itself in the Common Foreign and Security Policy (CFSP). The merger of the positions of High Representative of the Union for Foreign Affairs and Security Policy and that of the Vice President of the European Commission was clearly in line with German preferences, which had been geared towards comunitarising this policy field from the days of the European Political Cooperation up until the Lisbon Treaty.<sup>24</sup> Due to the intergovernmental ambitions of France and the United Kingdom, a compromise had to be struck combining traditional intergovernmental and community elements in the office of High Representative, who was granted a right of initiative comparable to that of the European Commission.<sup>25</sup> The Federal Republic's great skill of 'shaping the regional milieu'<sup>26</sup> does not always follow the same logic in all policy fields, since Germany, as previously mentioned, can at times act either as an engine or as a brake.

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23 See Frankfurter Allgemeine Zeitung: Schäuble: Geldpolitik mitverantwortlich für Erfolge der AfD, 9.4.2016; Philip Plickert: Weidmann betont Unabhängigkeit der Notenbanken, in: FAZ.NET, 12.4.2016; Holger Steltzer: Wo war Schäuble, als es darauf ankam?, in: FAZ.NET, 15.4.2016.

24 See Jens-Christian Gaedtko: Europäische Außenpolitik, Paderborn 2009, here pp. 31-41.

25 See Elfriede Regelsberger: Mehr Sichtbarkeit, Kohärenz und Effizienz für die GASP – Chancen und Risiken im neuen Verfassungsvertrag, in: Mathias Jopp/Saskia Matl (eds.): Der Vertrag über eine Verfassung für Europa. Analyse zur Konstitutionalisierung der EU, Baden-Baden 2005, pp. 323-342.

26 Simon Bulmer/Charlie Jeffery/William E. Paterson: Germany's European Diplomacy: Shaping the Regional Milieu, Manchester 2000.

## 7. The value-based European Policy of Germany

Since the 1950s, German governments have supported European integration beyond merely utilitarian reasons. Values and ideas have been equally important. Germany's desire for peace and reconciliation with its European partners, its search for a European rather than national identity after the catastrophe of Nazi Germany, and the general desire to establish a completely different relationship with other European nations were of overriding importance in the beginning of European integration. Over time, the promotion of democracy and stability in Europe became part of the canon of values as well. This was particularly true in the case of southern enlargement after the end of dictatorship in Portugal, Spain and Greece and later in the case of eastern enlargement following the collapse of communism and its command economies.<sup>27</sup> These ambitions remain relevant today in the context of efforts to integrate the countries of the Western Balkans into the EU in order to overcome the wounds of the Yugoslav Wars of the 1990s and to stabilize the European subregion. The relevance of this ambition was again underlined by the Conference for the Western Balkan States, hosted by Chancellor Merkel in Berlin in 2014, to highlight these countries' European vocation and Germany's commitment towards the region. The promotion of the European Neighbourhood Policy, and particularly the manifold efforts of solving the Ukraine Crisis, constitute further examples of Germany's European responsibility. One should not underestimate the degree to which European integration is ingrained in Germany's value system.<sup>28</sup> An additional example of this is Merkel's reaction to the crisis in the

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27 See Peter Becker: Die deutsche Europapolitik und die Osterweiterung der Europäischen Union, Baden-Baden 2011; Mathias Jopp: Germany and EU Enlargement, in: Karl Kaiser/Martin Brüning (eds.): East-Central Europe and the EU. Problems of integration, Bonn 1996, pp. 107-120.

28 See Ernst-Otto Czempel: Friedensstrategien. Eine systematische Darstellung außenpolitischer Theorien von Machiavelli bis Madariaga, 2. ed., Wiesbaden 1998.

Eurozone when she upheld Chancellor Kohl's vision that the introduction of the common currency would guarantee peace in Europe and would make integration irreversible<sup>29</sup> and she argued that "If the Euro fails, Europe fails".<sup>30</sup>

The Charter of Fundamental Rights of the European Union, written under the auspices of former Federal President Roman Herzog in 1999 and 2000 and heavily supported by Germany, similarly stands in this tradition. For the first time, the chapter summarised the European Union's fundamental rights in 54 articles by building on the European Convention on Human Rights, the European Social Charter and the national constitutions.<sup>31</sup> In addition, Germany's value-oriented approach is apparent in the Rule of Law initiative, launched with France and other partners, for providing instruments and procedures in case of a breach of basic values of the Treaty of the European Union in some member states such as Hungary and Poland. Hence in 2014, an Early Warning Mechanism was adopted by the European Commission, including a three-stage procedure – Commission assessment, Commission recommendation, and follow-up of the Commission's recommendation – complementing the rather cumbersome mechanisms of Article 7 of the Treaty on the European Union in case of threats to the rule of law in a member state (which have never been invoked).<sup>32</sup>

By stressing Europe's nature as a community of values, insisting on the right for asylum and opposing border fences and other harsh measures, the German

response to the refugee crisis in 2015 and 2016 was emblematic of the value-oriented element of its European policy. Again, it became clear that Germany's policy goes beyond pure economic cost-benefit calculations, also including values and ideological belief systems which need to be taken into account when explaining Germany's European policy.

29 See Ulrike Keßler: Deutsche Europapolitik unter Helmut Kohl. Europäische Integration als „kategorischer Imperativ“, in: Müller-Brandeck-Bocquet et al. (eds.): Deutsche Europapolitik von Konrad Adenauer bis Angela Merkel, 2010, p. 119-171; Stefan Fröhlich: Die innenpolitischen Kontroversen in der Regierung Kohl, in: Küsters (eds.): Deutsche Europapolitik Christlicher Demokraten, 2013, pp. 363-381.

30 Deutscher Bundestag: Rede von Bundeskanzlerin Angela Merkel. Scheitert der Euro, dann scheitert Europa, 19. Mai 2010, available at: [https://www.bundestag.de/dokumente/textarchiv/2010/29826227\\_kw20\\_de\\_stabilisierungsmechanismus/201760](https://www.bundestag.de/dokumente/textarchiv/2010/29826227_kw20_de_stabilisierungsmechanismus/201760) (accessed: 18.4.2016).

31 See Charter of Fundamental Rights of the European Union, in: Official Journal of the European Community, 18.12.2000, C364/1-22.

32 See European Commission: Communication from the Commission to the European Parliament and the Council: A new EU Framework to strengthen the Rule of Law, Brussels, 11.3.2014, COM/2014/158 final.

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