

EDITORIAL

A capable Union?

In a second attempt, the European Union heads of government agreed on a draft for the European Constitution. Their aim, and the aim of the European convention, was to strengthen the Union's capacity to act despite the increased number of members, which means to permit majority decisions. It is questionable whether the aim was successfully achieved because of the complex majority rules differing according to different policy areas and because of additional rules concerning minority votes. The targeted strengthening of the council presidency means a weakening of the community elements in favour of the interests of the nation states in the European Union. This will make decisions more difficult for the community instead of easing them.

Assuming that the EU will become more capable of acting because of its new constitutional treaty, the question remains what it will be capable to do? The crucial constructional flaw in the union is the fact that it has no political mechanism to express the collective will of the European population. This could be achieved by a European Parliament that consists of pan-European parties or by a president of the European Commission, if he or she were elected directly by the European public. Without such an institution, which represents the political interest in European public/community goods, the Union will develop towards an entity in which each member will increasingly ask what individual advantages can be achieved and how the costs of a union policy can be passed on to other members. The more "capable of acting" the union is, the stronger this tendency of members exploiting the community will be. Capability alone is not a good.

Ratification of the constitutional treaty is questionable, especially in those states in which the population is asked to agree via a referendum. This demonstrates the scepticism of the voters towards an entity whose logic has become questionable from the point of view of political economy. The decline of the constitutional draft would be a disaster for politicians but an opportunity for the EU to go forward on the way towards a positively capable European democracy.



Prof. Dr. Jürgen von Hagen

The 2004 elections for the European Parliament against the background of the EU enlargement

An assessment by ZEI

by Hubert Iral

In the elections for the European Parliament (EP), it has once again been demonstrated that the level of interest among citizens to become involved in European affairs is only relatively marginal. But since the participation of citizens in the integration process represents a key element for its success, ZEI regards one of its most important tasks as that of academically addressing this area of EU development in particular. The election results have again shown how necessary this is.

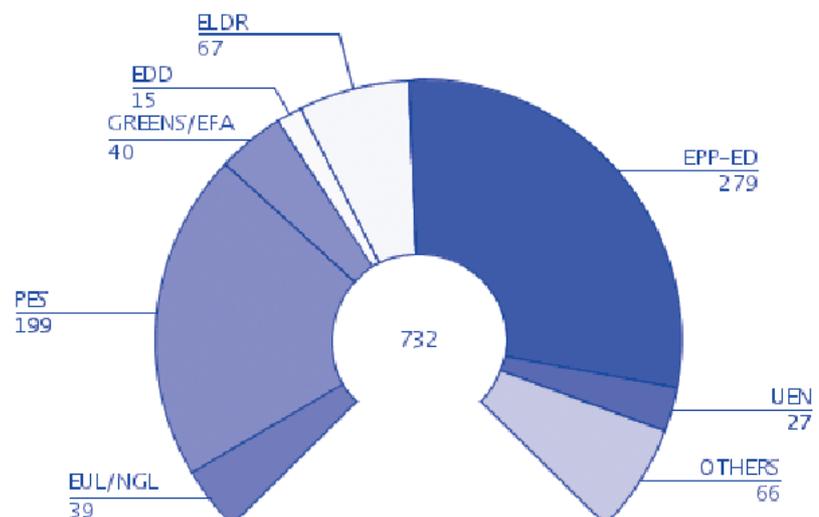
In the second June week of this year, 342.5 million citizens were called upon to elect their representatives to the EP. They included just under 58 million first-time voters from the new Member States.

Some forecasters had predicted that the continuous decline in the poll would be reversed or at least slowed down in 2004. "Transparent" reporting on the EU Constitutional Convention and the (as yet) pro-European attitude of voters in the new Member States were expected to contribute to this.

However, these expectations were only fulfilled to a very limited degree. While some countries actually did enjoy a higher turnout, with the United Kingdom and The Netherlands even boasting considerable increases, this does not alter the fact that the poll statistics in the old Member States and in the EU as a whole had dropped to their lowest percentage level since 1979.

And the new Member States had their fair share in this as well. The negative frontrunner was Slovakia, with a poll

Seats in the European Parliament

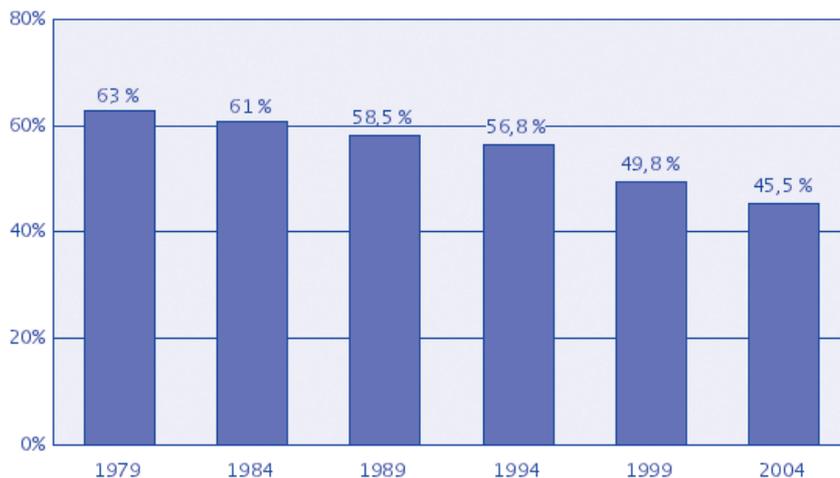


▶ of just 16.3 percent. But what had a far greater impact was the low level of interest among the electorate in Poland, the Czech Republic and Hungary, where the election turnout was 20.8, 27.9 and 38.5 percent respectively. Even the more conservative estimates, including those of ZEI, had not anticipated this. With the exception of Spain and Greece, the governing political parties and their representatives lost a considerable share of the vote in comparison with the two previous national ballots. What is also conspicuous is the relatively low level of interest among the young and first-time voters.

ZEI analyses suggest the following reasons for this outcome:

1. With the exception of the GREENS, national topics were at the centre of the campaign among all political representatives. Thus many voters were not truly aware of their European policy representatives being the subject of debate.
2. Going to the ballot box was not so much a matter of European policy and democratic ambitions, i.e. of indirectly participating in the Union's process of development by taking part in the elections.
3. Rather, a tendency could be observed to mainly give the parties one's disapproval of their policies at national level. By this token, polling was marked by stocktaking or warnings/protest behaviour.
4. This was especially the case in those countries in which there has not been a recent change of administration, as opposed to Greece or Spain. The election results in the United Kingdom, France and Germany clearly demonstrate this.
5. The lack of transparency in the integration process and actions of the EU organs latently and generally represents an obstacle to the development of more interest in EU affairs. In spite of some well-meant reform efforts in the

Turnout trends at European elections



EU (see above: Convention activities), no fundamental change has occurred in terms of making the integration process more transparent.

6. In the Central and Eastern European Member States, the repercussions of the transformation process crucially contributed to abstention from voting. In the course of the reform of economic and social order, large groups of the population suffered painful losses, and today, they are objectively in a worse position than they were before the political changes, or at least they subjectively feel as if they were. They had expected or hoped that accession to the EU would help their personal situation. In some cases, such as Poland, their governments had explicitly given rise to such hopes.
7. Partly, the renewed decline in turnout also reflects a further reduction in citizens' associating themselves with the Union and its concerns. It seems that only few of the voters have considered to what extent these concerns are having an impact on their day-to-day lives, attributing a personal dimension to the EU. Obviously the majority sees neither any cause for, nor any sense in, electing parliamentarians at the European level.

From the angle of political science, the low turnout prompts the question of a legitimisation deficit in the integration process. Is the low and once again declining poll now also a manifestation at the level of the European Parliament of the hypothesis of a lack of legitimacy which has already been complained about with regard to the European Council? And do the election results merely reflect the continuation of a latently existing integration deficit, or has this problematic area of the EU even been exacerbated?

Academics are going to have to address these issues intensively in the near future when they analytically examine the 2004 EP elections and how they relate to the integration process. In this sense, ZEI will also be focusing increasingly on this area of academic theory and develop methods of its own to solve relevant problems. In a ZEI Discussion Paper that is to appear shortly, the underlying reasons for the behaviour of the electorate and the election results are examined and a comparison is made with the United States.

Dr. Hubert Iral is an academic assistant at the ZEI Department for "European Value Systems, Cultures and Languages".

AUGUST TO OCTOBER 2004

ZEI CALENDAR

29th July – 7th August ZEI Summer School 2004 on Monetary Theory and Policy. Series of lectures delivered by Fabio Canova and Nobuhiro Kiyotaki for young economists with an opportunity for lively debates and to present their own research to a group of international academics.

3rd – 4th September ZEI Workshop on the topic of "Competitiveness and Growth in Europe: Lessons and policy implications for the Lisbon Strategy"

14th September ZEI Dialogue on Europe: Andreas Marchetti: European Defence and Security Policy

28th September ZEI Dialogue on Europe in collaboration with the German Society for Foreign Policy

30th Sept. – 1st October ZEI International Conference: "Advanced Perspectives on Migration and Mobility"

1st October Start of the 6th cohort of the "Master of European Studies" at ZEI

STANDPOINT

The new order of competencies in the European Draft Constitution is more comprehensible for the citizens

by Kristina Schreiber

On the 18th July 2003, the Convention on the Future of Europe publicised a Draft Constitution for Europe (CFE) which bids fair to provide the future basis for Community law. One of the prime objectives of this draft was the development of a more precise order of competencies giving special consideration to the principle of subsidiarity. As a product of the post-Nice process in the framework of which, up to this day, the division of competencies between the EU and the Member States has been discussed in particular, the CFE introduces some novel aspects offering more transparency and comprehensiveness for the citizens.

The principle of subsidiarity remains the central regulation in the order of competencies prescribed by the CFE. In the context of its being put into concrete terms and given more significance, in contrast with Article 5 II EC, which is still in force, the CFE now takes up the regional and local level in the norm text. The subsidiarity protocol that has been annexed to it accentuates the application of the material criteria by precautions regarding compliance with them in relation to the subsidiarity protocol of 1997. Thus the national parliaments are more firmly integrated, and the requirement for the Commission to file supporting arguments is tightened. These new aspects are to be welcomed in that they enhance the status the principle of subsidiarity has

which is of such importance to the order of competencies.

In addition, the CFE also boosts monitoring of compliance with the principle of subsidiarity. Already during the legislative procedure, the national parliaments have the right to file reasoning statements that are to be considered by the European legislative organs. Thus the CFE achieves a greater integration of the national parliaments the role in Europe of which has frequently been assessed as too small. In the context of monitoring by the courts, the most important renewal in the CFE is that it provides for an independent right of action on the part of the Committee of the Regions.

Furthermore, the CFE systematises EU competencies as exclusive and shared competencies as well as coordinating, supplementary and supportive measures. However, this division into three categories is again put into relative terms by the competencies regarding the coordination of economic and employment policy as well as those in the area of the Common Foreign and Security Policy, which cannot be assigned to the former. Here, a straightforward classification would have been desirable. The goal of such a clear systematisation is, in particular, better comprehensibility for the citizen via more transparency and a more straightforward assignment of political responsibility.

Also, the CFE extends the system of negative delimitations, which basically already exists. However, the CFE does not introduce a com-

plete dual assignment of competencies. And this ought to be welcomed, since such an assignment would be typical of an overall constitution that is not aimed at. However, if the system of partial constitutions is to remain in place and negative delimitations are only resorted to for particular aspects, they represent a useful instrument to ensure "critical competencies".

Finally, in the new version of "General Clause" Article 308 EC, the CFE also calls for approval by the European Parliament. Thus an excessive application of this important instrument for a flexible and dynamic development of integration can be prevented even more effectively.

Summing up, the CFE contains a number of new elements regarding the order of competencies but does not present a complete reordering. Rather, the draft is oriented on the existing system, and in several areas, it compensates for weaknesses that have on the one hand been demonstrated in experience with the existing division of competencies over the last few years and, on the other, are conditioned by the EU being enlarged to encompass what are 25 Member States. All in all, the lion's share of changes and, in particular, the basic approach of better comprehensibility for the citizen, greater transparency and stricter monitoring of compliance with the order of competencies that is pursued by the CFE ought to be welcomed.

Kristina Schreiber is a student assistant at the ZEI Department for "Political, Legal and Institutional Issues".

ZEI's involvement in the development of an EU Constitution

by Hubert Iral

The ZEI research group comprising law scholars, historians, economists and political scientists and headed by Dr. Marcus Höreth is scientifically monitoring the EU Constitution process and has already submitted the ZEI Discussion Paper "Der Verfassungsentwurf des EU-Konvents. Bewertung und Strukturentscheidungen". It is now working towards the completion of the follow-up publication on the same topic that is to appear in the ZEI Paper Series. It covers the entire agreement on a constitution for Europe as well as initial analyses on its contents and how it takes effect.

The commented analysis of the individual items does not lay claim to taking up and examining each individual aspect and each detail as would be the case with a law textbook or a commentary on a law or a constitution. Rather, it represents an attempt to compare the major traits of the political and legal intentions of those who have created the constitutional treaty with what it has turned out to be at the end of a tedious series of government conferences during which far-reaching decisions were made. In addition to the specialist audience, the commentary's target groups also comprise above-average informed people taking an interest in Europe.

In addition to the draft constitutional treaty, all documents, reports, papers, announcements, etc. that had been drawn up by the Council experts, diverse commissions, editorial conferences, etc. in the course of the government conferences provided the basis for the analysis. Together, they afford an impressive insight into what the disputes were like among the various poles of power and interests in the EU on the most controversial issues, weighting of votes in the Council, the composition of the Commission, the "double hat solution", etc., before the compromise was finally reached. On the other hand, it also becomes apparent how the relatively unproblematic elements of the draft constitution could be dealt with swiftly.

The catches between the lines of the constitution text

The paper is not merely aimed at presenting the obvious aspects at the forefront of the development of a constitution in the EU. Rather, reaching beyond this aspect, attempts are made again and again to highlight the catches in between the lines of the new regulations, for example those in the economic and social welfare sector, and assess their impact of the process of integration. A similar approach has been applied to the issue of the Union's "state" constitution and the as yet unspecified objective

of integration, i.e. the Finalité européenne. However, the paper also aims to look forward into the future. So the norms and regulations on hand are now viewed regarding their impacts that tend to be of a more positive nature in that they promote integration and, vice versa, their negative implications, i.e. effects representing obstacles to integration and possibly even reversing the process. Thus there is an assessment section at the end of each item dealt with.

Crowning achievement of Dr. Höreth's career with ZEI

This work, which Dr. Höreth has edited together with Dr. Hubert Iral and ZEI Director Prof. Dr. Ludger Kühnhardt, represents the crowning achievement and conclusion of his career with ZEI. Dr. Höreth's central mission was the academic monitoring of the constitutional process in the EU from its beginnings to its conclusion for the time being. In this context, together with Dr. Iral, he was ZEI delegate at the "European Policy Institutes Network" (EPIN), which has devoted particular attention to the EU Convention and the development of the European Constitutional Treaty at its meetings at the Center for European Policy Studies (CEPS) in Brussels since October 2002.

Dr. Hubert Iral is an academic assistant at the ZEI Department for "European Value Systems, Cultures and Languages".

A way to improve the efficiency of public Unemployment Insurance

by Tim Mennel

In Germany, as well as in other European countries, public Unemployment Insurance (UI) has been criticised for prolonging the duration of unemployment by too generous benefit schemes. A ZEI Working Paper develops a model that shows a way to improve the efficiency of public UI by introducing some choice into the programs.

In economic history, private Unemployment Insurance never existed, with one remarkable exception. In 1926 Metropolitan Life Insurance Ltd. applied for a licence for UI at the District Court of New York. However, it later withdrew the application after an internal cost-benefit analysis. One might think that there is no private UI because it is crowded out by public UI. However, Henry Chiu and Edi Karni explain the absence of private UI as a case of market failure that, under certain circumstances, can justify public provision of UI. In their model they assume heterogeneity of the insured which is unobservable to the insurance agency. A large group of employees would indeed like to purchase an actuarial fair insurance. However, such insurance cannot exist because the agency cannot distinguish workers of this first group from workers of a second group that would purchase UI

with the intention of provoking certain job loss. In equilibrium, the agency cannot offer profitable UI contracts that would attract workers of the first group.

Economists explain the phenomenon by the impact of UI on job search and call it moral hazard. Some conclude that UI should be abolished completely, arguing that workers could self-insure by precautionary saving. However, a recent US study makes the case for UI. The estimated drop in consumption in case of a job loss is 7% for workers with UI and 22% for workers without.

Optimal incentives for job search

An alternative view was taken by Shavell and Weiss in 1979. In a theoretical framework they proved that – due to the moral hazard problem – optimal UI benefit schemes decrease over time. With the same type of model Hopenhayn and Nicolini (1997) showed that taxes on labour income should increase after re-employment in the length of the unemployment spell. In these models the loss of utility due to moral hazard is balanced against the gain of utility by insurance. By the decrease of the benefit profile and the increase of taxes the government sets optimal incentives for job search. There is a problem, however: In their model, the authors assume that the unemployed form a

homogenous group. In real life, the cases of unemployment are very different, with some unemployed workers having very good prospects of finding a new job, while others will encounter considerable difficulties.

ZEI model would differ both in benefit and in tax schemes

In the ZEI Working Paper “An Adverse Selection Model of Optimal Unemployment Insurance”, Marcus Hagedorn, Ashok Kaul and Tim Mennel have investigated the shape of optimal UI if the heterogeneity of the unemployed is explicitly taken into account. The interesting result is that governments should introduce some choice into UI programs. Optimal UI contracts would differ both in benefit and in tax schemes. They were calculated in a simulation. Optimal UI contracts were calculated. According to the results the contract designed for unemployed workers with good prospects on the labour market starts with a high level of UI benefits that decreases steeply across unemployment, whereas the contract for workers with poor prospects of re-employment has a constant benefit scheme at an intermediate level. This model shows a way to improve the efficiency of public UI without resorting to a market solution.

Tim Mennel is junior fellow at the ZEI Department “Economic and Social Issues”.

The Mediterranean Forum at ZEI – the CSCE as a model for a “Greater Middle East”?

by Andreas Marchetti

While a structure in analogy to the CSCE would be desirable in principle for a reorganisation of the relations the West entertains with the “Greater Middle East”, it is hardly possible given the present realities. This was the basic assessment made at this year’s Mediterranean Forum, which was held by ZEI in Bonn for the fifth time on the 24th and 25th June 2004.

With the topic of “The CSCE as Model to Transform Western Relations with the Greater Middle East”, the workshop took up the insights of the conference held in Brussels together with the Konrad Adenauer Foundation in March and additionally attempted to assess the various concepts for a reorganisation of relations the West maintains with the extended Near and Middle East and develop its own proposals. Setting out from the initiatives to redesign the relationship with the “Greater Middle East” that were discussed in the con-

text of the G8, EU and US summits and within NATO in June, the workshop developed analyses and suggestions. The forum was held on the basis of tried-and-tested co-operation with the Konrad Adenauer Foundation in the context of the activities of the Euro-Mediterranean Security Commission (Euro Mesco). It was financially supported by the Thyssen Foundation.

In his introductory presentation, ZEI Senior Fellow Prof. Dr. Lothar Rühl focused on the historical development of the CSCE, emphasising similarities as well as differences in comparison to the context of the Near and Middle East. High-ranking diplomats and renowned academics then first of all asked themselves to what extent the three-basket model developed within the CSCE was also transferable to the “Greater Middle East”. In addition, an attempt was made to clarify what geographical area a structure analogous to the CSCE should cover and how the individual regions (Arab states, countries bordering on the

Mediterranean, the EU, North America, etc.) should be integrated into the process in order to develop a viable concept. In this context, attempts had to be made to integrate both Euro-Mediterranean partnership and the NATO dialogue on the Mediterranean in order to avoid an overlapping of efforts and initiatives for the region.

The Israeli-Palestinian conflict continues to pose a central problem in basing the relations of the West with the “Greater Middle East” on new foundations, which is why it was focused on in depth against the background of its impact on the region as a whole. To conclude the workshop, the issue was examined to what degree a process in analogy to the CSCE could be organised in concrete terms. The contributions to the conference will be published as ZEI Discussion Paper C 137.

Andreas Marchetti is junior fellow at the ZEI Department for “European Value Systems, Cultures and Languages”.

Research and Development in Europe: Implications for the Lisbon agenda

by Guntram B. Wolff

At the Lisbon Summit in March 2000, European heads of government declared their intention to make the European Union the “the most competitive and dynamic knowledge-based economy in the world by 2010”. Therefore, technological progress in particular has received considerable attention. A recent study at ZEI investigates the effectiveness of R&D subsidies to firms in terms of reaching the intended innovations.

One of the key factors for the Lisbon strategy is an increase in the average GDP growth rate in Europe from 2.1 percent to 3 percent in the last 10 years. Standard growth accounting exercises attribute roughly 50 percent of growth differences to an unexplained “Solow” residual, while the remaining 50 percent can be explained by capital and labour. Numerous factors have been put forward to explain the residual, such as cultural differences, human capital, sectoral structure of the economy, and levels of technological progress.

Technological progress in particular has received considerable attention in the academic debate and has been taken up by policymakers in the European Union.

Technological progress positively depends on innovations based on research and development (R&D). The ambitious goals of the Lisbon strategy could therefore be attained by increasing investment in R&D in Europe. In fact, while Europe invests roughly 2 percent of GDP in R&D, the US invests 2.8 percent. This difference can be explained mostly by low R&D enterprise investment in Europe (1.2 vs. 2.1 percent of GDP), as public investment is roughly equal. One avenue to foster R&D private investment in Europe would thus be to reinforce investment incentives by subsidising R&D in firms. Subsidies can be necessary if the social return to R&D is greater than the private return, which is likely as innovations are non-rival.

A macroeconomic panel data set of 15 OECD countries from 1981 to 2002

The ZEI study by Volker Reintaler and Guntram B. Wolff “The effectiveness of subsidies revisited: accounting for wage and employment effects in business R&D” investigates the effectiveness of R&D subsidies to firms. A macroeconomic panel data set of 15 OECD countries from 1981 to 2002 was employed to disentangle the effects of direct subsidies to R&D on aggregate R&D employment and expendi-

ture. The result is that a 1 percentage point increase in the direct subsidy rate leads to at least 1 percent more business R&D employment in the long run. Expenditure for business research increases more than R&D employment by roughly 20–30%. This shows that subsidies also raise scientists’ wages.

From this study one can conclude that R&D can be increased by subsidising firms. However, policy-makers should be aware that subsidies result in greater demand for researchers and will therefore imply significantly higher wages for them. Expenditure increases thus do not accurately reflect increases in actual R&D employment. R&D subsidies can only be one instrument in boosting long-term growth in Europe. Improving university education and reducing barriers for new innovative enterprises are certainly equally important. Factors besides innovation deserve further attention, such as the flexibility of economies to allocate more resources to sectors with higher productivity levels.

Guntram Wolff is junior fellow at the ZEI Department “Economic and Social Issues”.

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Credibility of no bailout clauses: old and new examples from the United States

by Mark Hallerberg

Article 103 in the Maastricht Treaty, the so called “no bailout” clause states that neither the European Community nor the Member States are liable for the commitments of other states.

Yet such an Article does not forbid states or the Community from bailing others out. Knowing about conditions under which bailouts do, and do not, occur, can tell us whether such no bailout clauses are credible or even necessary. The evolution of the United States as a fiscal federation is revealing.

The United States does not have a constitutional ban on federal bailouts of subnational governments. Yet a norm developed that state governments should expect no help from Washington if they face fiscal crises.

Erik Wibbels (2003) provides a powerful explanation for how this norm developed in the United States. In the 1840s, several state governments faced fiscal crises after a decade of splurging on investment projects, such as railroads, canals, and state banks. The states in greatest trouble clamoured for a federal rescue. A full bailout would have required the federal government to issue \$200 million in stock. However, the federal government failed to act on the states' behalf. Wibbels attributes this outcome to two factors. First, there was an uneven distribution of the debt burden and second, the system of representation at the national level guaranteed that the low debt states could block a federal bailout of the high debt states. Legislators from low debt states refused to support the proposed grants to the states, and the bill never came up even for a formal vote. Wibbels concludes that “hard budget constraints become binding on national and regional governments when enough regions are opposed to federal bailouts and their representation at the national level is sufficient to ensure that their preferences shape federal policy”.

The experience of the 1840s explains recent American behaviour

Wibbels' argument is equally adept at explaining developments over the last thirty years. There have been two occasions where the federal government gave

mostly unrestricted grants to the states during what the states perceived as fiscal crises. In the 1970s, under the General Review Sharing and Antirecession fiscal acts, and again in 2003, under the Jobs and Growth Tax Relief Reconciliation Act of 2003. In the most recent case, the federal government provided \$10 billion in unrestricted funds and another \$10 billion earmarked for state Medicaid programs. Given that the total deficits of states at the beginning of 2003 were estimated at between \$21.5 billion (National Conference of States Legislatures 2003) and \$25.7 billion (General Accounting Office 2004, 1), this inflow of cash represented a large portion of the states' fiscal gaps. There were several possible ways to distribute the funds, such as according to the depth of the fiscal crisis, the amount of employment lost, or fiscal capacity in terms of the size of the tax base. The method of the payout was similar to that proposed in the 1840s, namely every state ultimately was to get funding regardless of the depth of their actual fiscal troubles, and the distribution of funds was according to population, with adjustments that assured that small states received a minimum payment. As in the 1840s, this design was probably meant to maximise support both in a House of Representatives that is distributed according to population and in a Senate where, because every state has two senators, the small population states have proportionately more influence.

A useful lesson for the European Union

Wibbels would expect that most states would need to benefit from the transfers in order for them to support such a package. Indeed, most states did face budget difficulties. Most statehouses faced the unpalatable choice either of deep expenditure cuts, visible tax increases, or some combination of the two before the beginning of the budget year on July 1 in most states. The federal legislation to assist the states passed at the end of May, or just a month before the fiscal year was to begin.

While states did not technically face default in 2003, Wibbels' argument nevertheless nicely explains the recent federal behaviour, and it provides a useful lesson for the European Union. States will oppose bailouts when few of them are in fis-

cal trouble, and a formal ban on bailouts is not necessary to assure that a bailout in some form does not happen. In the European Union, where a qualified majority vote in the Council of Ministers represents a higher barrier than the simple majorities required in the American Congress, a bailout should be even less likely. At the same time, such a rule (informal or formal) will likely not hold if most states do not benefit from it.

Dr. Mark Hallerberg is Associate Professor of Political Science, Emory University and ZEI Senior Fellow.

ZEI PUBLICATIONS

ARTICLES AND PAPERS

Koenig: Ausgestaltung von Resale im neuen TKG – ohne Staatshaftungsrisiko! In: *MultiMedia und Recht (MMR)*, 3/2004, pp. 139–143.

Koenig: Effiziente Effizienzmaßstäbe in der energiewirtschaftlichen Netznutzungsentgeltregulierung! In: *WuW*, 3/2004, p. 247.

Koenig: TKG zwischen Besonderheitenlehre und Technologieneutralität. In: *K&R* 4/2004, p. 1.

Koenig/Beer/Meurer: Anspruch auf Erstattung des Herstellerrabatts gemäß § 130a Abs. 1 S. 2 SGB V bei der Arzneimittelabgabe durch Apotheken anderer Mitgliedstaaten. In: *ZESAR*, 2/2004, pp. 57–64.

Koenig/Braun: Rückgriffsansprüche des Bundes bei einer Haftung für Verstöße der Bundesländer gegen Gemeinschaftsrecht. In: *JN*, 3/2004, pp. 97–103.

Koenig/Haratsch: “Die Anwendbarkeit der Warnhinweispflicht des § 7 Tabakproduktverordnung auf andere Rauchtabakerzeugnisse als Zigaretten”. In: *ZLR* 2/2004, p. 233–240.

Koenig/Haratsch: Neues aus Brüssel zum Unbundling: “Interpreting Note” zu den Beschleunigungsrichtlinien für Strom und Gas. In: *ZNER* 1/2004, pp. 10–16.

Koenig/Haratsch: Die Wiedergeburt von Art. 86 Abs. 2 EG in der RAI-Entscheidung der Europäischen Kommission. In: *ZUM*, 2/2004, pp. 122–124.

Koenig/Kühling: EG-beihilfenrechtlicher “Switch-Off” für das digitale terrestrische Fernsehen (DVB-T)? In: *K&R*, 5/2004, pp. 201–208.

Koenig/Neumann: T CPA, TCG, Palladium und NGSCB – Anforderungen des EG-Wettbewerbsrechts an vertrauenswürdige Systemumgebungen. In: *MultiMedia und Recht (MMR)* 2003, p. 69.

AT A GLANCE

The European Union is intensifying its relations with Latin America. An associative agreement with South America's Mercosur has largely been negotiated, while the frame for more intensive political dialogue with the Andean Community (CAN) and the Central American Integration System (SICA) has been extended. Against this background, academic co-operation with the EU, and within this framework, with ZEI, is being met with considerable interest. ZEI Director **Prof. Dr. Ludger Kühnhardt** was able to witness this during a series of lectures and attendance of conferences as well as meetings with senior government representatives that took him around the five countries of the Andean Community in March 2004.

The events, which were well attended by competent integration researchers and a wide audience, demonstrated the degree of interest taken in co-operating in issues regarding more in-depth comparative research on the topic of "regionalisation in the context of globalisation". The Secretary-General of the Andean Community, Allan Wagner, and leading government representatives of the Andean countries expressed their interest in greater attention being given to European experience with integration. Kühnhardt encouraged his contacts and colleagues to boost the political dimension of integration in the Andean countries in order to ensure greater significance of the specific prospects for Latin America within the EU.

Prof. Dr. Gabor Erdödy, Senior Fellow at ZEI and current Hungarian Ambassador to the Holy See, has described Central Europe's role for the political culture of a Europe in the process of becoming unified and experience with a transformation of political culture among all EU Candidate Countries or new members with the support of renowned academics from these countries in two volumes of "Schriften des ZEI". At the invitation of the German and the Hungarian Ambassadors to Italy, they were presented at the Accademia di Ungheria in Rome on the 13th February. The addresses given by ZEI Director **Prof. Dr. Ludger Kühnhardt**, **Prof. Dr. Gabor Erdödy** and deputy CDU Federal chairman **Dr. Christoph Böhr** have appeared as ZEI Discussion Paper C 132.

Prof. Dr. Stefan Fröhlich, holder of the International Politics Chair at Nuremberg / Erlangen University and Senior Fellow at ZEI, has compiled a comprehensive survey of the latest developments in the reform debate on the EU institutions: "The Diffi-

culties of EU Governance. What way forward for the EU Institutions?" (Peter Lang Verlag). Fröhlich arrives at the result that the notion of a comprehensive reform of the EU system of government is unrealistic. However, he argues that since the traditional "community method" will hardly succeed in maintaining the ability to act on the part of a Union that now has 25 members, the Council will show less and less readiness in the coming years to successively transfer executive competencies to the Commission as a "European Government". Rather, the Council and the European Council will seek to extend their leading role in future.

Dr. habil Raphael Biermann, academic assistant at ZEI, was awarded the Venia legendi in May 2004, on completion of his "Habilitation" (the paper required to qualify as a university lecturer in Germany), at Bonn University's Faculty of Philosophy. The title of his "Habilitation" paper is: "The Kosovo policy of the international community prior to the outbreak of war. The dramaturgy and causes of failed conflict prevention". On the 15th July 2004, he delivered his Public Inaugural Lecture on the topic of "Quo vadis Europe? On the finality of the European enlargement process".

On the 14th June 2004, **Prof. Dr. Christian Koenig** delivered a lecture on the topic of "European law problems of emissions rights trading – the aid law perspective" at the "Special Conference on Legal Problems of CO² Emissions Trading" held by the Society for Environmental Law in Berlin.

On the 22nd June 2004, an "Advanced Workshop on Policy and Legal Developments in State Aid" was held in Maastricht. **Prof. Dr. Christian Koenig** lectured on the topic of "Financing of Public Service after Altmark".

ZEI PUBLICATIONS

SPECIAL PUBLICATIONS OF ZEI

Gabor Erdödy (ed.):
Mitteleuropa. Politische Kultur und europäische Einigung. Baden-Baden: Nomos 2003
(ZEI-Schriftenreihe, Vol. 54).

Gabor Erdödy (ed.):
Transformationserfahrungen. Zur Entwicklung der politischen Kultur in den EU-Kandidatenländern. Baden-Baden: Nomos, 2003
(ZEI-Schriftenreihe, Vol. 32).

DISCUSSION PAPER SERIES

C 132
Ludger Kühnhardt / Gabor Erdödy /
Christoph Böhr: *L'Europa centrale fra le culture politiche nazionali tradizionali ed una nuova identità europea*.

Energy Talks on the Petersberg. How the grid operators intend to calculate their rates following the planned amendment

by Margret Schellberg
and Kristina Schreiber

In the first ministerial draft bill of the new national Law on the Fuel and Electricity Industries (EnWG-E), the details of regulations on rates for access to the grid have hardly been put into more concrete terms than in the expediting guidelines the EnWG amendment is based on. Against this background, the Energy Talks organised by the "Studienkreis Regulierung der Netzwirtschaften im ZEI" (study circle on regulating the network economies at ZEI) address the task of putting the development of regulating rates into concrete terms from a scientific and practical angle. This is also what was done at the Petersberg guest house near Bonn on the 7th May 2004.

In his brief introduction to the topic, Prof. Dr. Christian Koenig, LL.M., ZEI Director and Spokesman for the Study Circle, referred to two cornerstones of rate regulation in the EnWG-E. In accordance with § 20 VI EnWG-E, only the necessary and therefore required investments in the grids may be considered in calculating rates. Regarding the issue of what investments were required, it had to be borne in mind that nobody could erect a "Chinese wall" in his head in order to eclipse experience in the period after the respective investment. So a fair ex post view had to be striven for. In addition, § 20 VI EnWG-E called for "rational management with regard to the fuel and electricity industries". Thus efficient management would be in demand.

The first half of the event addressed basic issues of rate regulation. Since the regulatory body for telecommunications and the post (RegTP) will also be responsible for regulating energy in future in accordance with § 54 EnWG-E, Friedhelm Dommermuth, RegTP, Bonn, presented his authority's rate regulation



There was a lively debate on the various views expressed on the panel.

approaches. Martin Cronenberg, Vice-President of RegTP, Bonn, explained how the regulatory body would become active in the area of regulating rates in the energy sector in future, stressing that the opinions of practitioners were important to RegTP – dialogue was also sought in the area of the fuel and electricity industries.

Making use of insights in telecommunications for the energy industry

The second part of the Energy Talks drew attention to the differences between the telecommunications sector and the energy industry. The question arises to what degree insights, experience and information gained from rate regulation in the telecommunications industry, which has made more progress, are of use to the energy industry and can be drawn upon as an exemplary rate regulation system. First of all, the essential characteristics of rate regulation in telecommunications were explained in a short overview. Given conversion to a network-element-based calculation of interconnection tariffs, regulation via incentives was a crucial aspect in terms of promoting willingness to invest. The consistency of rate regulation was a further important mission stipulated by the Telecommunications Law.

Subsequently, the differences between the two network economies were worked out from various angles. Robert Klotz, Direction General Competition, European Commission, Brussels, asked in what way the telecommunications sector could play an exemplary role with regard to rate regulation in the energy industry from a Community law angle. He ultimately stressed the need to observe Community Law provisions in implementing the expediting guidelines in order to achieve effective competition in the long run.

There was a lively debate on the panel and with guests that highlighted the topical nature of the thematic complexes discussed in the framework of the Energy Talks as well as the volatility of the various views expressed. The Energy Talks were concluded with the summary drawn up by PD Dr. Jürgen Kühling, Senior Fellow at ZEI, that rate regulation as stipulated in the EnWG-E was still too sensitive with regard to the regulation of incentives. In particular, it had become apparent that the efficiency windows that had been opened by the draft EnWG should not be shut again by all too tight provisions in a future grid rate regulation. With a view to the forthcoming expiry of the implementation deadline for the expediting guidelines, there was a clear need to discuss all remaining outstanding questions of rate regulation before being faced with a fait accompli.

Further information on the events of the "Studienkreis Regulierung der Netzwirtschaften" can be found on the homepage of the study circle at www.studienkreis-netzwirtschaften.de.

Margret Schellberg is an academic assistant at the ZEI Department for "Political, Legal and Institutional Issues", where Kristina Schreiber works as a student assistant.



ZEI Director Prof. Dr. Christian Koenig and the panel during the Energy Talks on the Petersberg.

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