

## The Europeanisation of Austria: Misfit, Adaptation and Controversies

**Gerda Falkner**

European Integration online Papers (EIoP) Vol. 5 (2001) N° 13;  
<http://eiop.or.at/eiop/texte/2001-013a.htm>

Date of publication in the  : 20.12.2001

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### Keywords

corporatism, europeanization, federalism, implementation, political science

### Abstract

This article analyses the multiple dimensions of Austria's Europeanisation and the high degree of both misfit and conflict involved therein. Austria's path to EU membership was characterised by fundamental doubts due to the country's status of neutrality, and by a basic reinterpretation of this concept. After accession, need for institutional adaptation to the EU's decision-making patterns was significant since major tenets of the Austrian political system are special. Furthermore, policy misfit between the domestic and the EU level was considerable in several fields, among them highly symbolic ones. Austria's EU-related diplomacy recently witnessed a major crisis with the other 14 member states 'sanctioning' the new centre-right government in a controversial way. Against this background of strong and multi-dimensional misfit, Austrian performance in implementing EU law is still surprisingly good. By contrast, public appreciation of EU membership has declined even further, and a majority of Austrians oppose enlargement while the Freedom Party advocates a referendum on that issue. Therefore, the conclusions argue that improved communication processes and mutual learning across the multiple levels of the EU system are crucial.

### Kurzfassung

Dieser Beitrag analysiert die Dimensionen, das Ausmaß und die Konfliktrichtigkeit der innerstaatlichen Anpassungen im Rahmen der österreichischen EU-Mitgliedschaft. Der Weg zum österreichischen Beitritt war bekanntlich infolge des Status der immerwährenden Neutralität lange Zeit umstritten, es folgte jedoch eine grundlegende Neuinterpretation. Aufgrund der EU-Mitgliedschaft wurden signifikante Anpassungen der politischen Institutionen und Entscheidungsmuster Österreichs notwendig (vor allem in den Bereichen Sozialpartnerschaft und Föderalismus). Darüber hinaus bestanden inhaltliche Disparitäten in mehreren Politikfeldern mit teils großer symbolischer Bedeutung. Die österreichische EU-Außenpolitik erlebte kürzlich eine veritable Krise, als die 14 anderen Mitglieder die neue Mitte-Rechts-Regierung auf kontroverielle Weise "sanktionierten".

Vor dem Hintergrund dieser vielfältigen und starken Diskrepanzen zwischen Österreich und der EU ist die österreichische Leistung im Rahmen der Implementation von EU-Vorgaben noch immer gut. Demgegenüber hat sich die öffentliche Stimmungslage zur EU-Mitgliedschaft in Österreich weiter verschlechtert, und eine Mehrheit der Bevölkerung lehnt die bevorstehende Erweiterung ab, während die FPÖ eine Volksabstimmung zum Thema fordert. In den Konklusionen wird daher argumentiert, daß intensivierete politische Kommunikationsprozesse innerhalb Europas und ein Lernen voneinander für die Zukunft des Kontinents von großer Bedeutung sind.

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European Integration online Papers (EIoP) Vol. 5 (2001) N° 13; <a href="http://eiop.or.at/eiop/texte/2001-013a.htm">http://eiop.or.at/eiop/texte/2001-013a.htm</a>
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## Introduction <sup>↑</sup>

Austria as a (potential) EU member state has been controversial domestically as well as internationally. This paper provides an overview on the most contentious issues, including both the top-down perspective – i.e. how the EU impacts on formerly national policy fields and political structures – and the bottom-up perspective, i.e. how Austria as a member state in turn tries to influence the EU and organises domestic EU-related policy processes.

Including both the top-down and the bottom-up dimensions (Börzel 1999) of Europeanisation<sup>(1)</sup> is the special aim of this paper.<sup>(2)</sup> This is not only relevant for painting an encompassing picture of Austria within the EU. It is of analytical relevance, too, since the top-down and bottom-up dimensions are far from independent of each other. For example, the very high adaptive pressure regarding both Austrian policies and Austrian political institutions could have led to an implementation gap. Such an effect is typically postulated in the rich academic literature which stresses the 'degree of misfit' as the decisive variable for domestic stalemate as opposed to change (Börzel 2000a, b; Duina 1997, 1999; Duina/Blithe 1999; Knill/Lenschow 2000; Risse et al. 2001), in particular where change would concern deeply embedded national patterns (Knill/Lenschow 1998: 610). Reactions to adaptational pressure and change in symbolically charged issue areas such as neutrality, federalism, corporatism, Alpine road transit, and the like, would therefore not have come

as a surprise to the political scientist. Negative consequences stood to be expected both on the level of public opinion and of Austrian implementation performance.

This article shows, however, that the reactions to the high adaptive pressure in fact concern only one of these levels (i.e. public opinion), but that they seem rather dangerous in terms of the future of European integration. It has not exactly been helpful in that sense that ‚European diplomacy‘ has proven highly problematic not only in the bottom-up direction (meaning Austrian activities to communicate relevant domestic options and related political developments to the EU) but also in the top-down way: the much debated ‚sanctions of the EU-14‘ seem to have provoked more antagonism than successful learning processes on the EU’s concerns vis-à-vis Austrian political choices.

This article first analyses Austria’s path to accession (I below) which was characterised by fundamental doubts concerning the country’s status of neutrality, and by a basic reinterpretation of this concept during the membership negotiations. Institutional need for adaptation to the EU’s decision-making style (II below) was significant since major tenets of the Austrian political system are special (federalism and corporatism, most importantly). Policy misfit between the domestic and EU-level (III below) was considerable in several fields, too, notably concerning road transport and transit, real estate markets and agriculture. Despite recent controversies (IV below), Austrian performance in implementing EU law is still comparatively good while public appreciation of EU membership has declined even further (V below). This seems dangerous, considering in particular that a majority of Austrians oppose enlargement and that the Freedom Party advocates a referendum on that issue. Therefore, the conclusions argue that improved communication across the multiple levels of the EU system is crucial for the future of the continent.

## I Debates and negotiations on EU membership <sup>↑</sup>

By the time of the first efforts of European integration at the end of the 1940s and the beginning of the 1950s, the occupied country of Austria was in a clear conflict of objectives: its interest to participate in (western-) European co-operative organisations, above all the Marshall-Plan, was not to cause confrontations with the Soviet Union and thereby endanger Austria’s aspirations for the restoration of state sovereignty. Consequently, it is seen as ”by no means self-evident” that Austria became one of the seventeen founding members of the Organisation for European Economic Co-operation (OEEC) in 1948 (Urlesberger 1990: 20).

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The initiative of the French Minister for Foreign Affairs Schuman of 9 May 1950 to found a European Coal and Steel Community for a supranational administration of strategic industries was not met by an immediate reaction of the Vienna government (Weiß 1993: 38f.) for the linking of non-aligned status and Austrian sovereignty by the Soviet Union became more and more obvious.

In the following a compromise was negotiated. Austria committed itself in the "Moscow Memorandum" to declare permanent neutrality following the Swiss model, and the Soviet Union was in turn prepared to bring the negotiations on the Austrian Independence Treaty (*Staatsvertrag*) to a speedy close. Hence, the Austrian *Staatsvertrag* was signed on 15 May 1955, the declaration of neutrality followed on 26 October 1955. The adoption of the status of permanent neutrality by Austria was announced to all those countries to which Austria held diplomatic relations.

During the 1950s and later, neutrality and membership in one of the European Communities (EC)(3) were generally seen as incompatible. Despite its frequently discussed close economic co-operation with the EC six in the sector of coal and steel and concerns of consequently being disadvantaged in matters of supply and export, Austria thus decided stick to only a tariffs agreement with the ECSC. It

stayed away from the negotiations of the Treaties of Rome despite Spaak's invitation addressed at all OEEC-countries to participate.

When the European Free Trade Area (EFTA) was established in 1960 for the seven OEEC countries that did not form part of the EEC, Austria became a founding member alongside Great Britain, Denmark, Norway, Portugal, Sweden and Switzerland. However, closer economic co-operation was almost immediately sought for, the appropriate form being seen in EEC association.<sup>(4)</sup> To this end the minister of foreign affairs Kreisky stated on 19 May 1961 that EC membership was not compatible with Austrian neutrality, but that an association seemed possible (Hamel 1993: 58). This assessment was however not shared by the Soviet Union (ibid. and Schneider 1990: 31). It was crucial for the fate of the Austrian, Swiss and Swedish applications for association of 15 December 1961 that the EC first negotiated the British application for membership. When British accession failed because of the French veto in 1963, the plans of association of the EFTA members, that had above all aimed at free trade, also seemed obsolete. Austria was able to enter into single negotiations with the EEC, which however only resulted in two so-called global and interim agreements in July 1972. This proved to be only a short lead vis-à-vis the other EFTA-states, which were able to sign corresponding free trade agreements within the same month – so that the old OEEC-goal of a large European free trade area was finally reached (for more detail see Schneider 1990: 30ff., Hamel 1993: 63ff.).

During the second half of the 1980s, however, Austrian EC-related policy made a complete U-turn (Leitner 1993: 88). Above all, the EEC's Internal Market Programme revived Austrian debates on EC rapprochement.<sup>(5)</sup> But not only the significant economic gains of this further market liberalisation as promised in the optimistic 1988 Cecchini Report (Cecchini 1988) changed the situation. Also the domestic political framework conditions had changed significantly and now allowed an incremental (though speedy) change of direction. As of 1983, the traditionally pro-European Freedom Party was for the first time part of a coalition government (with the Social Democrats). A populist change to EU criticism occurred only later under the chairmanship of Joerg Haider. Already before the publication of the European Commission's White Paper on the Internal Market (Commission of the European Communities 1985), two professors of international law declared for the first time (in an expertise paid by the Association of Austrian Industry, VÖI) that EU membership was not to be considered in conflict with Austrian neutrality. Soon after publication of the Internal Market White Paper, the Christian Democratic Austrian People's Party (ÖVP) asked for reinforced co-operation with the EC, and leading members of the Austrian Social Democratic Party (SPÖ) such as Peter Jankowitsch soon followed. When Jankowitsch became Minister of Foreign Affairs in a reformed coalition government (new SPÖ chairman was Franz Vranitzky) in 1986, the 'integrationist' part of the social democrats grew larger and larger. Under the new grand coalition government between SPÖ and ÖVP as of 1987, the governing parties even both tried to appear as the most pro-European party (Schaller 1994). Both now wanted as much co-operation as possibly feasible without (for reasons of neutrality policy) becoming a full member of the EC.

Full membership was first demanded by the Freedom Party and the Association of Industrialists (VÖI), in spring 1987. The ÖVP followed suit in early 1988. The Social Democrat Chancellor Vranitzky gave a statement to that effect in summer 1988, after an interministerial working group on European integration had delivered a report recommending membership. This was the first in-depth study on the effects of the European Communities' *acquis communautaire* on Austrian policies and politics. Soon thereafter, the international law department of the Foreign Ministry (*Völkerrechtsbüro*) advocated membership with a reservation on grounds of neutrality (*Neutralitätsvorbehalt*), and the social partners welcomed EC membership in a joint report (a typical procedural step in the Austrian political system) "assuming that Austrian permanent neutrality would

be upheld in all aspects and secured” (translation GF Sozialpartnerstellungnahme 1989: 11).

A further crucial step was the government’s report to Parliament of 17 April 1989 which recommended membership under the conditions of upholding neutrality, federalism, the Austrian social system, an offensive environmental protection policy, an area-wide peasant agriculture<sup>(6)</sup> and, finally, of solving the problem of transit through the endangered Alpine regions. Additionally, an inter-party agreement among the coalition partners SPÖ and ÖVP on how to further proceed towards membership eased the way towards the Parliament’s mandate to the government for negotiating with the EC, given on 19 June 1989 with a very large majority. One month later (17 July 1989), the formal letter of application was submitted in Brussels. However, negotiations on the European Economic Area (EEA) were already under way,<sup>(7)</sup> and the forthcoming Maastricht Treaty furthermore delayed any immediate follow-up to this desire of membership.

Formal accession negotiations between the EC and Austria only began on 1 February 1993. The relevant *Commission opinion* (Europäische Kommission 1992) had positively underlined the political stability and economic health of the applicant, while fearing that neutrality might hamper the development of a European Foreign and Defence Policy. Against this background, it came as a great surprise that neutrality was no controversial issue in the ensuing negotiations. By contrast, agriculture, real estate markets and transit proved to be the most tricky chapters in the Austrian case (see below, policy adaptation). Parallel to Austria, the EC also negotiated with Sweden, Finland and, after 5 April 1993, even with Norway (that did not join after a negative referendum). Switzerland had applied for membership on 26 May 1992 but later suspended this quest.<sup>(8)</sup>

Membership negotiations with Austria were concluded after 13 months only, on 1 March 1994. Negotiations of this third EC widening round<sup>(9)</sup> were significantly eased by the fact that the EEA agreement had already transferred sizeable parts of the EC’s economic *acquis* to the EFTA states. Furthermore, there was a strong political will to include those wealthy and stable democracies, consequently an innovative negotiation tactic was chosen: for the first time, only the General Affairs Council (and not the more specialised Councils) negotiated with the four EFTA countries (Granelli 1994). Despite the fact that the 1993-4 enlargement negotiations involved a larger number of applicants than former ones, they were the least problematic and most rapid. In addition, the agreed transition periods were shorter than previously (Cameron 1995: 33).<sup>(10)</sup>

Looking back at the membership negotiations and summarising their experiences, Austrian diplomats admitted that their EU counterparts had been much better versed in the bargaining (Luif 1995: 119, with further references) . Before formal membership as of 1 January 1995, however, Austrian representatives were allowed to have a kind of training in EU-internal diplomacy since they were allowed to participate in all kinds of committee meetings, as ‘active observers’.<sup>(11)</sup>

## II Institutional adaptation <sup>↑</sup>

Among the new EU members, which are ideal cases for studying domestic Europeanisation effects, Austria is a particularly challenging case regarding top-down impact on the national political system. From the viewpoint of the traditional Austrian ”model” of a political system, EU membership was expected to have significant consequences on several basic features. To counterbalance the predicted effects, a number of steps were taken or attempted (some significant, some rather symbolic) to protect, in particular, the traditional roles of parliament, *Länder* and social partners from being eroded in the multi-level system. Their effect was not always successful.<sup>(12)</sup>

## II.A The constitution ↑

Among the political institutions (in the wider sense) that saw significant changes was even the Austrian Federal Constitution. Since several basic principles were affected, a so-called basic revision (*"Gesamtänderung"*) of the constitution had to be agreed. The democratic principle was touched since the production of binding law would no longer be a privilege of the Austrian Nationalrat, but a shared competence with mainly the EC Council of Ministers and, only to a more limited extent, the elected European Parliament. The principle of division of political powers was affected since national executives dominate the legislative process at the EU level. The rule of law principle was influenced by EU adhesion since the interpretation monopoly of the Austrian Constitutional Court was restricted to purely national affairs, while the ECJ enjoys primacy in the interpretation of EU law. Finally, the federalist principle of Austrian constitutionality was not abolished but deeply affected since many competencies of the regions were shifted to EC institutions.(13)

As basic revision of the Austrian constitution, EU membership could only be realised on the basis of a general referendum. The result seemed open for a long time, but during the final phase the promoters (first of all, the government which spent approximately 10 Million Euro) gained in momentum by relying on professional marketing campaigns and the most widely spread tabloid *"Kronenzeitung"*.(14) In addition to expectations of enhanced economic growth and wealth, the fear of political and economic isolation outside the EU dominated the decision of 66,6% of the turnout to join the union (Plasser and Ulram 1994: 32).

## II.B Parliament ↑

During the years preceding the Austrian accession to the EU, studies on the likely effects predicted manifold changes due to the significant differences between the political system of the EU, on the one hand, and Austria, on the other (see notably Gerlich and Neisser 1994). A focal point of these studies was the expectation that the government and the administration would gain in political weight to the detriment of parliament. A change in terms of the horizontal distribution of functions (Olsen 1997) was expected since the government was to have its action capacity increased via privileged access to EU decision-making (Gerlich 1994). Since it would regularly interact with the other governments in the EC Council of Ministers, it would participate in package deals and the relevant political give-and-take across issue areas – which is in practice outside the control of other national actors. In the long run, the Austrian government could even be expected, as a consequence of its increasingly European involvement, to develop "European" interests in addition to national ones, which might result in less parallel views of ministers/administration and social partners than hitherto (Gerlich 1994).(15) The Austrian parliament, by contrast, would not only lose its monopoly on passing "Austrian" legislation because of regulative competencies being shifted to the EU level (Neisser 1994, Falkner 1994); in general, the parliamentary character of the political system,(16) in the sense of a decisive say for political representatives who are directly legitimated, would also suffer, it was feared.

Even the constitution was changed to give the directly elected first chamber of the Austrian parliament extremely far-reaching powers to control the government in EU affairs. The Austrian model even exceeds the Danish one in this respect (Morass 1996, for an international comparison see Bergman 1997). Article 23e of the Federal Constitution provides that the *Nationalrat* must be informed in good time about all EU-related projects by the responsible minister. On projects leading to mandatory law in areas which before would have needed national legislative scrutiny (this is notably the case when new EC Directives or Regulations are negotiated), the *Nationalrat* may issue an opinion which will bind the Austrian members of government in EU-level negotiations and votes.

The ministers can only ignore such a mandate if there are "compelling reasons of foreign or integration policy",<sup>(17)</sup> and after another consultation with the MPs. Where EU projects would lead to changes in the (rather extensive) body of Austrian "constitutional law",<sup>(18)</sup> departure from a parliamentary opinion is only legal if the *Nationalrat* does not impede it after "reasonable delay".

It is important to note that accession-related constitutional reforms had to be adopted during a period (1994–96) when the Austrian coalition government did not have the two-thirds majority needed to adopt laws of constitutional quality in parliament. The SPÖ<sup>(19)</sup> and the ÖVP<sup>(20)</sup> had been in government together since 1987 and held more than two-thirds of the parliamentary seats during most of that time, but to pass the changes required for EU membership, they needed the consent of members of the political opposition (de facto of members of the minor Green and Liberal parties), who asked for far-reaching parliamentary participation and control.

The actual practice of control over government by the Austrian parliament has not as yet been a success story. In fact, detailed studies show that *parliament is an institutional loser* in the integration process despite all constitutional precautions to protect it. The *Nationalrat* has given binding mandates to Ministers only in very few cases. By summer 2001, the total number of binding opinions issued by the Austrian *Nationalrat* was only 34 (Blümel and Neuhold 2001: 319). Furthermore, the mandates became less detailed over time (see also Luif 1998). The most recent meeting of the EU sub-committee of the Austrian Parliament on 8 May 2001 has only been the 8<sup>th</sup> in total (www.parlament.gv.at).

This is, at least to some extent, a reaction to *bad experience*. The most widely discussed problematic case concerned an EC Directive on animal transport. That Austria was outvoted on that issue further confronted the parliamentarians with the fact that large parts of EC decision-making cannot be directly controlled by a national parliament since many decisions are nowadays taken by majority voting in the Council. Experiencing this, after having lost approximately 70% of their law-making powers to the EU (Müller 2000), was a harsh lesson for many Austrian members of parliament – despite the fact that they had known about it in theory long before accession. Even in those cases where unanimity requirements theoretically guarantee that a single national parliament, as the elected representative of its citizens, can impose its views not only on the national government, but also on the Union, members of the Austrian parliament concede that the volume and intricacies of EU legislation tend to prevent this in practice.<sup>(21)</sup>

## II.C Social partnership

The most widely discussed and supposedly most "typical" feature of the Austrian political system is the corporatist co-operation of the centralised peak associations of labour and management with the state in shaping public policies. In the Austrian case, both the structural (interest group set up) and the procedural dimensions (involvement in policy-making) of corporatism are extremely well-developed. There are a number of quite hierarchically organised "chambers" (for business, labour, agriculture etc.), i.e. interest groups set up by Austrian law where membership is obligatory. The classic social partner institutions in Austria are thus the Chamber of Business (*Wirtschaftskammer Österreich*), the Chamber of Labour (*Bundesarbeitskammer*), the Conference of Presidents of the Chambers of Agriculture (PRÄKO) and the encompassing Austrian trade union confederation (ÖGB). These pillars of "social partnership" co-operate formally (e.g. in a plethora of working groups) and informally with the other political institutions, on a daily basis. Although there are (increasing) differences between policy and issue areas, it is quite common that draft legislation is negotiated between the social partners and/or the relevant ministry before being "rubber-stamped" in parliament (for an overview and recent developments see Karlhofer and Tálos 1999).

EU adhesion was not expected to put an end to this pattern of corporatism (or social partnership), but to change it in a "substantial and speedy" way (Tálos 1994: 179). As a *direct* effect of membership, the issues prone to joint decision-making by the Austrian social partners and "the state" would be less numerous since decisions would be shifted to the EU level. As an *indirect* effect, pluralist patterns of interest group behaviour at the European level ("lobbying") were expected to trickle down into the Austrian system.

Since the major interest groups feared that "significant parts" of their powers in national policy-making would be transferred to Brussels (Sozialpartnerstellungnahme 1989: 157, translation by the author), Austria tried to counterbalance this, too (for a detailed overview see Karlhofer and Tálos 1996). As early as 1989, a party agreement between SPÖ and ÖVP promised that the long-standing practice of social partner participation in the shaping of Austrian social and economic conditions would be upheld even during EU membership. The 1994 "Europe Agreement" between the Austrian coalition parties allocated specific participation rights at the European and the domestic<sup>(22)</sup> levels to the four social partner institutions. The four major associations were even promised "equal" participation in the various EU decision-making bodies and committees.<sup>(23)</sup> Soon after the Austrian adhesion, however, the government qualified its concession. It argued that, according to EU rules, only government representatives are officially part of national delegations. For special cases, the responsible Minister nevertheless agreed to include social partner representatives in the national delegation, although without the right to speak (Karlhofer and Tálos 1996: 141).

Nevertheless, the social partners seem very satisfied when asked about their role in the shaping of Austrian positions for the EU Council during the early years of EU membership (Eder and Hiller 1998).<sup>(24)</sup> However, there are differences between policy areas<sup>(25)</sup> (indirectly mentioned in Karlhofer and Tálos 1996: 143) which have recently increased (Kittel and Tálos 1999). Much more strongly affected than by EU membership was Austrian social partnership certainly by the concertation-adverse centre-right government since 2000 (Tálos and Kittel 2001).

## II.D Federalism

Austria is a federal state with the nine provinces (*Länder*). For the *Länder*, it was clear that a number of competencies which were still in their realm would be "Europeanised" or at least severely encroached upon by EU law. Although the legislative powers of the Austrian *Länder* were already quite limited before 1994, EEA and subsequently EU membership eroded them even more. Traditional competencies of the regions were, for example, in the fields of country planning, road construction (except Federal routes), the regulation of property markets (where it was common to discriminate against foreigners when it came to buying landed property, e.g. in Tyrol) and of some professions (such as skiing or dancing instructors), the setting of economic incentives (funding), and wildlife and animal protection (e.g. the conditions of production on animal farms, the definition of cruelty to animals). That supranational bodies would in future make decisions on many of these issues (i.e. that the level of decision-making would change from *subnational* to *supranational*) was not the only concern of Austrian *Länder* politicians and political scientists dealing with matters of federalism. Another issue was that the decision-makers at the supranational level would not be representatives of the *Länder*, since there is no co-decision power for the subnational regional entities at the EU level.

In turn, a reform of the national distribution of competencies between the central and the regional level was demanded (Dachs 1994). Since the government conceded that this should happen parallel to EU accession (Weber 1996: 50), it was hoped that a reform of the federal state would come as a positive side-effect of membership and as a pay-off for the negative consequences for the *Länder*.

That the planned reform of the *Bundesstaat*, which was intended to counterbalance losses of the *Länder* in the multi-level political system of the EU, was never adopted, is a significant setback for Austrian federalism.

The participation of *Länder* (and, to some extent, even districts) in European integration affairs, by contrast, has been regulated in Article 23d of the Austrian Constitution and in a special state-*Länder* agreement. The procedure resembles the participation of the *Nationalrat* in the same field, but the provinces have less far-reaching rights. The government is obliged to inform the *Länder* on all EU-related projects which touch their domestic realm of autonomy or might otherwise be of interest to them. This is effected by submitting all relevant documents and reports. The *Länder* may issue opinions on such EC projects. Their unanimous position in an area of *Länder* competency under domestic jurisdiction is binding for the Austrian delegation in Brussels. Abstention is of no consequence, but five out of the nine *Länder* must vote for any "joint position". Only if there are "compelling reasons of foreign or integration policy" – which is a "legally vague clause", however (Morass 1997: 80) – the government may deviate from such positions and justify this within eight weeks.

In practice, unanimity is a big hurdle and binding opinions of the *Länder* are in practice very rare (Morass 1997: 82, Steiner and Trattnigg 1998: 164). If such joint *Länder* opinions were adopted during the early years of Austrian EU membership, it was uncontroversial to make them the "national" position because the interests of the federal and the regional level in Austria were usually closer to each other at the time than they were to the positions of the other member states (Morass 1996: 41). Furthermore, the deadlines and time pressures of Euro-politics impinge on the *Länder* even more than on actors at the federal level.

Another concession to the *Länder* gained during the pre-accession phase is that they can directly participate in EU negotiations. If issues within their inner-state legislative realm are discussed, the government may include a *Länder* nominee in the Austrian delegation. This representative may, however, only act in co-operation with the responsible member of the government (see Art. 23d Paragraph 3 of the Austrian Constitution). However, this is less far-reaching than the Belgian model, which provides that the federal state may be represented and committed in the EC Council by a member of a sub-national government (Kerremans and Beyers 1997: 46), and has been very rare so far (Morass 1997: 84).

## II.E The executive and administration

EU membership triggered no changes to the overall structure of government departments. The Austrian practice for the domestic handling of EU affairs is based on the 1994 inter-party 'Europe Agreement' between SPÖ and ÖVP (for more detail see Müller 2000). The lead ministry which represents the Republic in the EC Council and which co-ordinates the related domestic process of decision-making is selected on the basis of maximum funds for the respective task according to Austrian law<sup>(26)</sup>.

At least, EU adhesion has initiated a moderate modernisation process in public administration. The need to employ travel-ready personnel with good language and negotiation skills needed more flexible employment contracts than civil service knew before, and some unusually speedy careers (even for women) were made on the basis of European qualifications.

*Concluding the institutional section* of this paper, one should underline that the Austrian case confirms earlier insights, relating to other member states, that European integration impacts on federalism, parliamentarism and public-private relations.<sup>(27)</sup> In political practice, the characteristics of Euro-politics proved to be quite resistant even to deliberate national counterbalancing. Both country-specific and general conditions led to this outcome.

Country-specific conditions are

- the *design* of the co-decision powers for non-governmental actors involved in EU-level decisions and in intra-Austrian EU-related policy making. One example is that the *Länder* have to adopt unanimous viewpoints if they want to mandate the government which represents Austria in the EU Council of Ministers.
- the specific *political framework conditions* under which the participation mechanisms as designed in (constitutional) law have historically been put into practice. The stable "grand coalition" government 1987 – 1999 plays a major role here, as does the consensual culture of Austria's political system<sup>(28)</sup> and the tradition of coalition discipline.

In addition, *general features of the multi-level system* also contribute to the fact that Europe "sticks" more than some had thought prior to Austrian membership:

- the executive-based decision model at the EU level cannot be outweighed unilaterally in (present or future) member states, although a number of instruments are available in principle. However, EU-level representation can at best be vested on subnational governments (which then commit the entire member state) and never to representatives of private interests (such as the Austrian social partners).
- For practical reasons such as scarce resources (most notably in the case of interest groups), co-ordination problems (in particular for regions) and overcrowded agendas (e.g. for national parliaments), national actors cannot really control the details of EU-level policy-making in practice.<sup>(29)</sup>

### III Policy adaptation <sup>↑</sup>

Implementing the entire *acquis communautaire* meant, by the mid-1990s, that Austria had to conform to more than 4,000 EC regulations and approximately 1,200 EC Directives (Heinisch 2001: 271) which touched almost all policy areas.

In general, the direction of EU policy impact on Austria was a liberalising one. It was even a crucial argument on the side of the pro-membership actor coalition that the 'over-regulated' Austrian economy needed modernisation and normalisation in terms of free market orientation, and that only the EU as an external justifier could realise that option within reasonable delay. However, by the time Austria became a member, the EU had a huge policy *acquis* that in many fields surpassed the purely economic field. Furthermore, economic policy options such as the free transport market impinge on related fields such as environmental policy in an at least indirect manner.

Most controversial were the changes needed (or discussed) in the fields of road transit, agriculture, real estate markets and foreign policy. They shall be briefly outlined here, in turn.<sup>(30)</sup>

#### III.A Alpine transit <sup>↑</sup>

Road transport and, in particular, transit through the environmentally endangered Alpine province of Tyrol (Germany and Italy are connected by the Brenner pass), had already been an issue during the EEA negotiations where Austria could only gain some concessions allowing departures from the EU ideal of fully liberalised transport markets and free road transit. They consisted in a general commitment to aim at shifting loads from road to rail, and the so-called transit agreement, concluded for twelve years as of December 1991. A system of ecopoints made the number of allowed transit

units depend on the exhaust fume level. An upper limit was from the Austrian side thought to limit further increase of transit (which it did not) and reduce pollution. In the membership negotiations, this had to be renegotiated again with a view to respecting the *acquis communautaire* (for an in depth overview, see Heinisch 2001) . Studies suggested an increase of up to 100 per cent until 2010 as a consequence of the EC Internal Market and Austrian membership (Wimmer and Mederer 1990: 249) . The negotiations were extremely tough, and the Austrian goal of upholding the transit agreement was not reached. Concessions had to be made regarding both the length of the agreement's duration, and the maximum weight of lorries. All bilateral traffic (as opposed to transit) was to be liberalised within two years after accession.

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Facing even increased transit, Austria finally breached EU law by establishing transit fee increases and a Brenner road toll. It was taken to the ECJ and condemned in September 2000.(31) In turn, a regulation by the European Commission on the distribution of ecopoints was successfully challenged by Austria (see ECJ suspension of applicability, order of 23 February 2001; *Der Standard*, 24 February 2001). Even in 2001, this issue is far from being settled. The Austrian Transport Minister recently announced to submit another case to the ECJ, disputing a new Commission decision on ecopoint management (*Der Standard*, 23 August 2001). The European Commission, however, had somewhat earlier disconfirmed Austrian data on the amounts of transit (*Der Standard*, 26 July 2001). In any case, tough negotiations are looming since the transit agreement ends by late 2003. Austrians are worried that there might be unrestricted transit afterwards – a decision that would clearly not increase sympathy for European integration in the Alpine region (for relevant data, see the conclusions).

### III.B The markets for agricultural goods and real estate

In the Austrian membership negotiations, the agricultural chapter as presented by the applicant focused on temporary derogation for domestic produce (for details, see Mayrhofer 1996) . Since domestic price levels were up to 20 per cent higher than in the EU, Austrian farmers would have lost too much of their income, too sudden. Vienna asked for direct payments from Brussels to compensate for losses of approximately 550 million Euro (Kunnert 1993: 330f) . In the frame of the so-called internal market model that was favoured by the Commission, lower prices were finally accepted as of the first day of Austrian membership. In return, the EU gave digressive payments for the first four years. However, the Austrian budget also had to spend significant sums for maintaining farming in the Alpine republic which suffers from comparatively unfavourable natural conditions (compared to, e.g., The Netherlands).

This is one of the reasons why Austrian budgetary problems peaked right after membership (Van der Bellen 1996) . While the EU was useful as an external justifier for budgetary consolidation soon thereafter, "an appreciable part of the high budget deficit recorded in 1995 was attributable to the costs of accession; according to Commission estimates, around 2 percentage points of the total 5.2 percent deficit" (Tálos and Badelt 1999: 354, see also Van der Bellen 1996: 128) . For joining Economic and Monetary Union as one of the initial members, the Austrian government (successfully) faced the need for cutting the budget deficit from 6.2% of Gross Domestic Product (1995) to the mere 3% allowed by the Maastricht criteria. The public debt had to be brought down from 69.2% (1995) to 60%.

A further important issue during the Austrian membership negotiations was the equal treatment of non-Austrian EC citizens on the *property markets*. Again, Tyrol was a crucial region since the areas without too heavy traffic are attractive for holiday homes. But also Salzburg and Vorarlberg were concerned that EU membership would heavily increase the price of land and make construction slots,

in the beautiful mountainous regions a scarce resource, unaffordable for "normal Austrian citizens". The Austrian negotiators desired to copy the so-called Danish model to allow secondary homes only if someone has been living in the area for five years. Since this can be seen as a discrimination against foreign citizens who will have lived in the region for such a long time less often, the EC did not want to extend it to any new members. Austria had to give in to the EC standards in place after a transition period of only five years (Heinisch 2001: 273) .

### III.C Neutrality

Foreign policy issues represented the most surprising chapter of the Austrian membership negotiations. For decades, EU membership had been considered impossible for reasons of foreign and security policy. The debates preceding the 1989 application had been based on the assumption that there would be exemptions and specific provisions in the membership treaty securing that the special status of Austria could be upheld in full (see already above). Even the formal letter containing the Austrian membership applications for either of the three European Communities had contained a reservation on neutrality. The EC opposed these reservations and feared that the permanent neutrality status might hamper the development of a common foreign and security policy since the latter needed unanimous approval.

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However, the negotiations on this chapter were concluded in a surprisingly short time (Luif 1995: 309) since Austria re-interpreted its concept of neutrality. An early sign of domestic splits within the government was that in the oral statement of Foreign Minister Alois Mock (ÖVP) when submitting of the application, no mention was made of neutrality. In a joint statement with the Chancellor in the weekly Austrian governmental meeting, however, Mock had on 17 April 1989 explained that permanent neutrality should be secured in the negotiations with the EC (Federal Chancellery, Document 671.171/18-V/5/89). By 2001, the SPÖ (now in opposition for the first time since 1970) is still split on the neutrality issue, but even NATO membership is now discussed in Austria.

In any case, it has in practice been agreed during the Austrian EC membership negotiations that the meaning of the Austrian neutrality status should be reduced to the military core of the old concept. This excludes a number of economic and political duties that had formerly been a generally accepted part of "permanent neutrality". In 1993, the Austrian cabinet issued a declaration to support the Foreign Minister in the negotiations: "... the Federal Government proceeds from the assumption that Austria is not obliged to participate militarily in wars, not obliged to accede to military alliances and to establish military bases of foreign states on its territory. This Austrian position will have to be cleared up by appropriate domestic legal regulations" (quoted from Luif 1995: 309). However, many argued that changing the Austrian law on neutrality which was not only of constitutional character but also highly renowned by the citizens, would in practice have meant not to join the Union (ibid.). For this reason, even those EU member states that would in theory have liked to see a formal and far-reaching commitment of the applicants to the future development of a joint foreign and security policy finally gave in to those who advocated a pragmatic approach.

The Austrian accession treaty<sup>(32)</sup> includes a joint declaration of the new members on foreign and security policy. Austria, Norway, Finland and Sweden agree to be able and ready, from the time of their accession, to participate fully and actively in the EU's Common Foreign and Security Policy as defined in the Treaty on European Union. In the negotiations, Austria declared that this participation would be in accordance with domestic constitutional law and that relevant adaptations were to be accomplished under new framework conditions, in the context of EU accession.<sup>(33)</sup> It is no irrelevant detail that the question posed to the Austrians in the membership referendum did not mention the issue of neutrality at all. The Austrian law on neutrality has not been formally changed

during or after the membership negotiations but, as outlined, the concept of neutrality has been incrementally reinterpreted to such a large extent that a fundamental change in substance cannot be neglected.

*To sum up*, misfit between domestic Austrian rules and EU law was significant in many fields, including highly symbolic ones. Adaptation was indispensable since the EU opposed permanent derogations in the membership negotiations (for the implementation record see below V).

## **IV The EU and Austria: The "sanctions" as a controversial case of European diplomacy** <sup>↑</sup>

That Austrian institutional adaptation to the EU structures and processes (see II above) must look as a success story from (at least) the European perspective has not prevented a major confrontation between the 14 other EU governments and Austria's then new government, in 2000. It was, however, not a lack in the formal adaptation of institutional structures but a perceived lack of good practice on the level of domestic government formation that led to the "EU 14's sanctions against Austria".(34)

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A few days before the new Austrian centre-right government between Christian Democrats (ÖVP) and the Freedom Party (FPÖ) was formed on 4 February 2000, the Portuguese Council Presidency issued a statement "on behalf of 14 Member States". It announced that

"the governments of the fourteen Member States will not promote or accept any official bilateral contacts at political level with an Austrian government integrating the FPÖ; there will be no support for Austrian candidates seeking positions in international organisations; Austrian Ambassadors in EU capitals will only be received at a technical level."

At that time, the Treaty on European Union (TEU) only included provisions on the suspension of membership rights in case of "the existence of a serious and persistent breach" of basic principles. (35) It is important to note that this procedure was at no point initiated against Austria since it was almost uncontested among the EU 14 that Austria was not "in serious and persistent breach" of the Treaties' basic principles. The other EU governments were however concerned that this might be the case at some point in the future, under a government including the FPÖ. Hence, one crucial issue concerned the distinction between actual breaches of principles and potential future breaches. Another delicate issue involved the difference between acting against such principles as human rights in actual deed versus "only" using verbal insinuations in such directions (e.g. in electoral campaigns). There is no easy answer to these questions. In any case, such concerns seem legitimate in a close political community where the members of national governments make up the main decision-making body and can block many crucial initiatives, even unilaterally. From this perspective, reacting to the formation of the new Austrian government made sense.

However, there are good arguments for questioning the sensibility of the specific form of reaction. Considering the EU provisions in force, it would have been a clear breach of the Treaty provisions if "EU sanctions" had been imposed on Austria. Many even thought that the Fourteen's multiple "bilateral" action was premature because the Union's basic rules do not only contain the clear procedures for potential sanctions outlined above, but also provisions on the respect of the national identities of the Member States (Art. E TEU), on abstaining from any measure which could jeopardise the attainment of the objectives of the Treaty (Art. 10 TEC), on the promotion of the Common Market and of solidarity between the Member States (Art. 2 TEC), and, very prominently,

on non-discrimination for reasons of nationality (e.g. Art. 12 TEC). Apart from the fact that the Fourteen's "bilateral" measures seemed questionable, therefore, at least in the spirit of the Treaties, their design has also been harshly criticised. The Presidency, an institution of the Union and the Communities, was used to proclaim the multi-national (but not "European") decision (on legal aspects see Pernthaler and Hilpold 2000). Strategically, its open-ended character and the lack of an exit option other than a breakdown of the Austrian centre-right government was striking. Content-wise, the second measure (non-support of Austrians in international organisations) has been discussed most controversially since one of the EU's major policies is non-discrimination on grounds of nationality. Point two of the "sanctions" could, however, affect persons who had never in their life voted for the FPÖ or who had even protested against the centre-right government.

As widely reported in the media, the Fourteen developed an exit strategy five months after the imposition of the "sanctions". It should be noted that the Austrian government had threatened to seek legitimisation for blocking EU reforms, in a domestic referendum. The report of three "wise persons" of 8 September criticised the FPÖ (e.g. for methods of campaigning and for intimidation of political critics via litigation in court) but confirmed the general opinion that the new government had not acted against European values. On that basis, the "sanctions" were immediately lifted without follow-up procedure or qualification. What this episode actually meant for both Austria and the EU remains to be seen in the longer term (for a profound early analysis, see Schneider 2000). Meanwhile, Commission president Romano Prodi reportedly does not believe that "sanctions in this type of case can provide better results than serious, open and in-depth dialogue" (*Agence Europe* 13 July 2000) and the Portuguese Prime Minister stated that the "sanctions" had done more harm than good (*Der Standard* 23 June 2000).

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Domestically, it seems that the Austrian centre-right government came out of this episode rather stronger and more unified than was initially the case. This indicates that the Fourteen may, after all, not have attained their desired effect inside Austria. It is also much too early to judge if the strategy to no longer exclude the FPÖ, but rather "domesticate" it by sharing government responsibilities, will attain the goals of its protagonists. It is pretty clear, however, that Austrian EU diplomacy has profoundly failed to communicate the intricate background of the most recent government formation to its EU partners. The elections in October 1999 had resulted in three parties of approximately the same weight. This was mainly a sign of protest against the 'super-stable' grand coalition between SPÖ and ÖVP (since 1986; the SPÖ had even been in government for 30 years). On the one hand, the result of the elections could be read as expressing a desire for change. On the other hand (and this was often neglected internationally), 63% did *not* vote for the FPÖ. However, only one form of stable (non-minoritarian) government except another grand coalition (relevant negotiations broke down) was possible, and this included the FPÖ. Therefore, even some people who did not promote the strategy to "domesticate" the populist FPÖ in government<sup>(36)</sup> saw themselves unfit to advocate a good alternative. Few people, in any case, considered the EU reaction helpful. A failure to clearly analyse and communicate the domestic Austrian situation to the EU partners may have played a role in bringing it about. This makes clear that European diplomacy in both the bottom-up and the top-down dimensions was far from unproblematic.

## V Austria and the EU: Still a 'good guy' in implementation, but deviant in mind? <sup>↑</sup>

The above made evident that Austria's EU membership has been characterised by a number of frictions. The EU's political structures and processes were not easily compatible with well-established customs (notably with the characteristic forms of corporatism and federalism). Not all

specific Austrian interests and policy paradigms are shared by the other member states (for example, on transit). At the same time, recent domestic developments (notably the formation of a government including the Freedom Party) have raised protest and even ‘sanctions’ at the European level.

How did Austria and the Austrians react to the strong and multi-dimensional misfit? Two issues are of interest. *First*, did the manifold adaptation requirements hamper the implementation record?

Initially, Austria did not exactly improve the EU’s performance in that respect. Austria was even last among the member states concerning the implementation of internal market rules since by November 1997, 10% of all relevant Directives were officially not transposed. By May 1998, however, Austria had made a big leap forward to the 7<sup>th</sup> place, only 5% still being marked as non-notified. The latest Commission report on implementation (Commission of the European Communities 2000b: 8) shows a medium-level performance for Austria (rank 8), with a total notification rate across all policy areas of 94,94%. To compare, Ireland as another small state in the Union but a more long-term member is ranked 11<sup>th</sup> with a notification rate of 94,13% (rank 15: Greece with 92,02%; rank 1: Denmark with 97,13%).

For sure, there are implementation shortcomings beyond the mere failure to inform the Commission of having transposed a Directive. Transposition may be incorrect or can have no effect on practical life in a member state (non-application). Such implementation failures are much more difficult to establish.<sup>(37)</sup> A comparative impression, at least, can be derived from the various kinds of enforcement procedures against non-conforming EU member states. By 1999<sup>(38)</sup>, Austria fared not too bad. Among the cases in motion on the basis of a *letter of formal notice*, Austria ranked 8<sup>th</sup> with 109 cases (highest number of letters of formal notice: France with 236, lowest: Denmark with only 40). At the *reasoned opinion* stage, Austria was even only at the 10<sup>th</sup> place with no more than 45 cases (highest number of reasoned opinions: France with 144, lowest: Denmark with only 9). Finally, and most importantly, looking at the *cases in motion* before the European Court of Justice, Austria also ranked 10<sup>th</sup> with 10 cases (highest number of cases in motion: France with 63 cases, lowest: Finland with one case only). For the year 2000, the breakdown by member state of infringement cases submitted to the ECJ (Articles 226 and 228 of the EC Treaty) was as follows (Commission of the European Communities 2000a: par. 1109):<sup>(39)</sup>

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Table 1

By the time of writing, three infringement proceedings against Austria have been decided, and the Alpine republic lost them all. On 28 October 1999, the ECJ ruled in connection with construction works in Sankt Pölten (the new administrative and cultural centre of the Land Niederösterreich) that EC rules on procedures for the award of public contracts had not been respected (case C-328/96). On 26 September 2000, the Luxembourg judges concluded that the tolls on the Brenner motorway (see above on transit problems) were in breach of EC law (case C-205/98). On 14 June 2001, the Court held that Austria had failed to fulfil its obligations to implement worker protection from risks related to exposure to biological agents at work (case C-473/99).

All in all, however, the Austrian implementation record does not seem to be suffering from the recent political controversies with the EU partners. At least on the general, issue-unspecific level, the dominant approach of EU-related implementation theory stressing the misfit between EU and national patterns as the main predictor of implementation problems does not seem to fit this case very well. This could mean two things. Either, that the misfit-oriented lens excludes important other dynamics that might be specific for the Austrian case alone (this seems rather improbable, however).

Or, that the misfit is a bad predictor at the general level (although a good one at the issue-specific level which could not be analysed here). The Brenner motorway ECJ judgement against Austria can be interpreted as pointing in the latter direction. However, the two other infringements to date come from less controversial policy areas, and in total Austria shows few infringements if compared to the visible amount of misfit. Further research is needed in that respect, preferably at a later point in time. One reason for the relatively good transposition and application record may, in any case, be that the political and administrative elites are responsible for implementation, not the wider public. This leads to the other question of interest here:

*Second*, did the controversial debates lower the Austrians' enthusiasm for EU membership and raise criticism against specific aspects of European integration?

This seems to be the case since latest opinion polls (European Commission 2001) indicate that by May 2001 only 34% of Austrian respondents declare *membership a good thing* (peak: 72% in both Ireland and Luxembourg; lowest rate: 29% in UK). It is true that Austrians have been quite critical ever since they joined the EU, but in 1999 (i.e. before the 'sanctions') at least 42% had answered favourably.

### Table 2

Only 38% of Austrians thought by May 2001 that their country had on balance benefited from being a member of the EU (peak: 83% of Irish people; lowest rate: 27% in Sweden). *Trust in the European Commission* is even lower in the UK (only 25%), but Austrians are also quite critical in that respect (39%; peak: 64% in Luxembourg).

Among the policy issues<sup>(42)</sup> closely connected to the future of European integration is *enlargement*. It is not readily accepted in Austria. Only 33% of respondents supported the forthcoming widening of the European Union to the east and south which would include a number of Austrian neighbours. This is the lowest rate throughout the EU (peak: 70% in Greece).

## Outlook

As outlined in the introduction and discussed in section V, high adaptive pressure on the Austrian system in both the policy and the institutional dimensions should have led to an implementation gap, according to scholarly expectations. However, Austria shows no persistently high implementation deficit. By contrast, public opinion seems the factor indeed responding to widespread and controversial Europeanisation pressures. For sure, that many Austrians flight into Euro-scepticism and xenophobia is not only a response to the tensions imported by institutional and policy misfit but also to other (often home-made) factors. In any case, the Austrian administrative and political elites are much less affected by Euro-scepticism than the '(wo)man on the road'. They pushed the acceptance of Austrian EU membership<sup>(43)</sup> and the good implementation record.<sup>(44)</sup> In the longer run, however, this seems to have contributed to the Euro-pessimistic turn in public opinion and the attitude of saying 'nasty' things when for once being given voice, in Eurobarometer polls. It remains to be seen if other than egoistic and emotional short-term considerations will dominate during the popular referendum the FPÖ wants to initiate on EU enlargement.<sup>(45)</sup>

Whatever led to the present situation: the low support for both EU membership and for the forthcoming EU enlargement indicates that Austrian EU-related diplomacy and politics still have a lot to do. First, in communicating within Austria (for example) the importance of not building new frontiers within Europe. Second, in communicating to the EU partners what the concerns of Austrian

citizens related to enlargement are and how one can best find a constructive way of coping with them.(46)

Whether this challenge is taken seriously remains to be seen. Unluckily, the communication between domestic and European levels has not exactly been satisfactory during the early years of membership and, most importantly, during the period of Austrian government formation in 2000. It is thus only the *potential* of learning processes on both sides which allows for some optimism.

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## References <sup>↑</sup>

Bergman, T. (1997) 'National parliaments and EU Affairs Committees: notes on empirical variation and competing explanations', *Journal of European Public Policy* 4 (3): 373-387.

Blümel, B. and Neuhold, C. (2001) 'The Parliament of Austria: Big Procedures with Little Implications', in: A. Maurer and W. Wessels (eds) *National Parliaments on their ways to Europe: Losers or Latecomers?*, Baden-Baden: Nomos.

Börzel, T.A. (1999) 'Towards Convergence in Europe? Institutional Adaptation to Europeanization in Germany and Spain', *Journal of Common Market Studies* 37 (4): 573-596.

Börzel, Tanja A., 2000a: Improving Compliance through Domestic Mobilisation? New Instruments and Effectiveness of Implementation in Spain. In: Christoph Knill/Andrea Lenschow (eds), *Implementing EU Environmental Policy. New Directions and Old Problems*. Manchester: Manchester University Press, 222-250.

Börzel, Tanja A., 2000b: Why There Is No 'Southern Problem': On Environmental Leaders and Laggards in the European Union. In: *Journal of European Public Policy* 7(1), 141–162.

Cameron, F. (1995) 'Keynote Article: The European Union and the Fourth Enlargement', in: N. Nugent (ed.) *The European Union 1994*, Oxford: Blackwell.

Cecchini, P. (1988) *Europa '92: Der Vorteil des Binnenmarktes*, Baden-Baden.

Commission of the European Communities (1985). DOC COM Completing the Internal Market: White Paper from the Commission to the European Council (Milan, 28-29 June 1985). (85) 310 final (1985-06-14).

Commission of the European Communities (2000a) *General Report on the Activities of the European Union*. Brussels. Online. Available online: <http://www.europa.eu.int/abc/doc/off/rg/en/welcome.htm>.

Commission of the European Communities (2000b) *Seventeenth Annual Report on Monitoring the Application of Community Law*. Brussels.

Dachs, H. (1994) 'EU-Beitritt und die Bundesländer', in: P. Gerlich and H. Neisser (eds) *EU-Beitritt als Herausforderung*, Wien: Signum.

Duina, Francesco G., 1997: Explaining Legal Implementation in the European Union. In: *International Journal of the Sociology of Law* 25(2), 155–179.

Duina, Francesco G., 1999: *Harmonizing Europe: Nation-States within the Common Market*.

Albany: State University of New York Press.

Duina, Francesco G./Frank Blithe, 1999: Nation-States and Common Markets: The Institutional Conditions for Acceptance. In: *Review of International Political Economy* 6(4), 494-530.

Eder, M. and Hiller, K. (1998) 'Sektorstudie Sozialpolitik', in: G. Falkner and W.C. Müller (eds) *Österreich im europäischen Mehrebenensystem: Konsequenzen der EU-Mitgliedschaft für Politiknetzwerke und Entscheidungsprozesse*, Wien: Signum.

Europäische Kommission (1992). Die Erweiterung der Gemeinschaft: Aufgaben und Herausforderungen. Stellungnahme der Kommission zum Beitrittsantrag Österreichs. Bulletin der Europäischen Gemeinschaften (Beilage 4).

European Commission (2001) *Eurobarometer. Public Opinion Analysis*, European Commission. Brussels. 55. Online. Available online: [http://europa.eu.int/comm/dg10/epo/eb/eb55/ip\\_en.pdf](http://europa.eu.int/comm/dg10/epo/eb/eb55/ip_en.pdf).

Falkner, G. (1994) 'EU-Beitritt aus demokratiepolitischer Sicht', in: P. Gerlich and H. Neisser (eds) *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Wien: Signum.

Falkner, G. (1998) 'Österreichische Politiknetzwerke und EU-Mitgliedschaft: Ergebnisse und Trends', in: G. Falkner and W.C. Müller (eds) *Österreich im europäischen Mehrebenensystem: Konsequenzen der EU-Mitgliedschaft für Politiknetzwerke und Entscheidungsprozesse*, Wien: Signum.

Falkner, G. (2000) 'How Pervasive are Euro-Politics? Effects of EU Membership on a New Member State', *Journal of Common Market Studies* 38 (2): 223-250.

Falkner, G. (2001) 'The EU14's "Sanctions" Against Austria: Sense and Nonsense', *ECSCA Review (Journal of the European Community Studies Association USA)* 14 (1, Winter 2001): 14-20.

Falkner, G. and Müller, W.C. (eds) (1998) *Österreich im europäischen Mehrebenensystem: Konsequenzen der EU-Mitgliedschaft für Politiknetzwerke und Entscheidungsprozesse*, Wien: Signum.

Falkner, G. and Nentwich, M. (2001) 'Enlarging the European Union: The Short-term Success of Incrementalism and De-politicisation', in: J.J. Richardson (ed.) *European Union – Power and Policy-Making*, London: Routledge. Online. Working Paper version available online: <http://www.mpi-fg-koeln.mpg.de/pu/workpap/wp00-4/wp00-4.html>.

Gerlich, P. (1994) 'Regierungspolitik und Europäische Union', in: P. Gerlich and H. Neisser (eds) *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Wien: Signum.

Gerlich, P. and Neisser, H. (eds) (1994) *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Wien: Signum.

Goetz, K.H. (1995) 'National Governance and European Integration: Intergovernmental Relations in Germany', *Journal of Common Market Studies* 33 (1): 91-116.

Granelli, F. (1994) 'The Accession Negotiations', UACES Conference "The 1995 Enlargement of the EU: Austria, Sweden, Finland and Norway?" (1994-12-02): London.

Griller, S. (1991) 'Wird Österreich das dreizehnte EG-Mitglied? Neutralität und Grundprinzipien des

österreichischen Bundesverfassungsrechts als Prüfsteine des Beitrittsantrags', *Europäische Zeitschrift für Wirtschaftsrecht* 2 (22): 679-690.

Hamel, S. (1993) "'Eine solche Sache würde der Neutralitätspolitik ein Ende machen". Die österreichischen Integrationsbestrebungen 1961-1972', in: M. Gehler and R. Steininger (eds) *Österreich und die europäische Integration 1945 – 1993*, Wien: Böhlau.

Heinisch, R. (2001) 'Austria: Confronting Controversy', in: E.E. Zeff and E.B. Pirro (eds) *The European Union and the Member States. Cooperation, Coordination, and Compromise*, Boulder/London: Lynne Rienner.

Jeffery, C. (1997) 'Farewell to the Third Level? The German Länder and the European Policy Process', in: C. Jeffery (ed.) *The Regional Dimension of the European Union. Towards a Third Level in Europe?*, London: Frank Cass.

Karlhofer, F. and Tálos, E. (1996) *Sozialpartnerschaft und EU. Integrationsdynamik und Handlungsrahmen der österreichischen Sozialpartnerschaft*, Wien: Signum.

Karlhofer, F. and Tálos, E. (eds) (1999) *Zukunft der Sozialpartnerschaft: Veränderungsdynamik und Reformbedarf*, Wien: Signum.

Kerremans, B. and Beyers, J. (1997) 'The Belgian Sub-National Entities in the European Union: Second or Third Level Players?' in: C. Jeffery (ed.) *The Regional Dimension of the European Union. Towards a Third Level in Europe?*, London: Frank Cass.

Kittel, B. and Tálos, E. (1999) 'Interessenvermittlung und politischer Entscheidungsprozeß: Sozialpartnerschaft in den 1990er Jahren', in: F. Karlhofer and E. Tálos (eds) *Zukunft der Sozialpartnerschaft: Veränderungsdynamik und Reformbedarf*, Wien: Signum.

Knill, Christoph/Andrea Lenschow, 1998: Coping with Europe: The Impact of British and German Administrations on the Implementation of EU Environmental Policy. In: *Journal of European Public Policy* 5(4), 595–614.

Knill, Christoph/Andrea Lenschow, 2000: On Deficient Implementation and Deficient Theories: The Need for an Institutional Perspective in Implementation Research. In: Christoph Knill/Andrea Lenschow (Hrsg.), *Implementing EU Environmental Policy. New Directions and Old Problems*. Manchester: Manchester University Press, 9-35.

Kohler-Koch, B. (1991) 'Die Politik der Integration der DDR in die EG', in: B. Kohler-Koch (ed.) *Die Osterweiterung der EG*, Baden-Baden: Nomos.

Kohler-Koch, B. (1998) 'Regionale Leistungskraft und regionale Nutzenbilanz', in: B. Kohler-Koch, B. Jouve, E. Négrier, J.R. Grote, M. Knodt, F. Larat, J. Loughlin, F. Morata, J. Etherington, N.G. Matarán and J. Mathias (eds) *Interaktive Politik in Europa: Regionen im Netzwerk der Integration*, Opladen: Leske + Budrich.

Kunnert, G. (1993) *Österreichs Weg in die Europäische Union: ein Kleinstaat ringt um eine aktive Rolle im europäischen Integrationsprozeß*, Wien: Verlag der österreichischen Staatsdruckerei.

Ladrech, R. (1994) 'Europeanisation of domestic politics and institutions: the case of France', *Journal of Common Market Studies* 32 (1): 69-88.

Leitner, G. (1993) 'Der Weg nach Brüssel. Zur Geschichte des österreichischen EG-Beitrittsantrages vom 17. Juli 1989', in: M. Gehler and R. Steininger (eds) *Österreich und die europäische Integration*

1945 – 1993, Wien: Böhlau.

Luif, P. (1994) 'Die Beitrittsverträge: Grundlegendes zu den Verhandlungen der EFTA-Staaten um Mitgliedschaft bei der EG/EU', *Österreichische Zeitschrift für Politikwissenschaft* 23 (1): 21-36.

Luif, P. (1995) *On the Road to Brussels. The Political Dimension of Austria's, Finland's and Sweden's Accession to the European Union*, Wien: Braumüller.

Luif, P. (1998) 'Austria: Adaptation through Anticipation', in: K. Hanf and B. Soetendorp (eds) *Adapting to European Integration. Small States and the European Union*, London/NewYork: Longman.

Mayrhofer, W. (1996) 'Landwirtschaft: Umbruch ohne Krise', in: E. Tálos and G. Falkner (eds) *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, Wien: Manz.

Morass, M. (1996) 'Österreich im Entscheidungsprozess der Europäischen Union', in: E. Tálos and G. Falkner (eds) *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, Wien: Manz.

Morass, M. (1997) 'Austria: The Case of a Federal Newcomer in European Union Politics', in: C. Jeffery (ed.) *The Regional Dimension of the European Union. Towards a Third Level in Europe?*, London: Frank Cass.

Müller, W.C. (2000) 'EU Co-ordination in Austria: Challenges and Responses', in: H. Kassim, G.B. Peters and V. Wright (eds) *The national co-ordination of EU policy: the domestic level*, London: Macmillan.

Neisser, H. (1994) 'Parlamentsreform und EU-Beitritt', in: P. Gerlich and H. Neisser (eds) *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Wien: Signum.

Olsen, J.P. (1997) 'European Challenges to the Nation State', in: B. Steunenberg and F.v. Vught (eds) *Political Institutions and Public Policy. Perspectives on European Decision Making*, Dordrecht/Boston/London: Kluwer Academic.

Pernthaler, P. and Hilpold, P. (2000) 'Sanktionen als Instrument der Politikkontrolle – der Fall Österreich', *integration* 23 (2): 105-119.

Plasser, F. and Ulram, P.A. (1994) 'Motive der Stimmbürger bei der Volksabstimmung über den EU-Beitritt am 12. Juni 1994', in: F. Plasser, P.A. Ulram, F. Sommer and A. Vetschera (eds) *Analyse der EU-Volksabstimmung*, Wien: Fessel + GfK und Zentrum für angewandte Konfliktforschung.

Risse, Thomas/Maria Green Cowles/James Caporaso, 2001: *Europeanization and Domestic Change: Introduction*. In: Maria Green Cowles/James Caporaso/Thomas Risse (Hrsg.), *Transforming Europe: Europeanization and Domestic Change*. Ithaca: Cornell University Press, 1-20.

Rometsch, D. and Wessels, W. (eds) (1996) *The European Union and member states. Towards institutional fusion?*, Manchester: Manchester University Press.

Schaller, C. (1994) 'Die innenpolitische EG-Diskussion seit den 80er Jahren', in: A. Pelinka, C. Schaller and P. Luif (eds) *Ausweg EG? Innenpolitische Motive einer außenpolitischen Umorientierung*, Wien: Manz.

Schmidt, V.A. (1996) 'Loosening the Ties that Bind: The Impact of European Integration on French Government and its Relationship to Business', *Journal of Common Market Studies* 34 (2): 224-254.

Schmidt, V.A. (1997) 'European Integration and Democracy: The Differences among Member-States', *Journal of European Public Policy* 4 (1): 128-144.

Schmidt, V.A. (1999a) 'European 'Federalism' and its Encroachments on National Institutions', *Publius* 29: 19-44.

Schmidt, V.A. (1999b) 'National Patterns of Governance under Siege: The Impact of European Integration', in: B. Kohler-Koch and R. Eising (eds) *The Transformation of Governance in the European Union*, London: Routledge.

Schneider, H. (1990) *Alleingang nach Brüssel, Österreichs EG-Politik*, Europäische Schriften: 66, Bonn: Europa Union Verlag.

Sozialpartnerstellungnahme (1989) "*Österreich und die Europäische Integration*", Wien.

Steiner, G. and Trattnigg, R. (1998) 'Sektorstudie Umweltpolitik', in: G. Falkner and W.C. Müller (eds) *Österreich im europäischen Mehrebenensystem*, Wien: Signum.

Tálos, E. (1994) 'Interessenvermittlung und Interessenkonzertierung', in: P. Gerlich and H. Neisser (eds) *Europa als Herausforderung. Wandlungsimpulse für das politische System Österreichs*, Wien: Signum.

Tálos, E. and Badelt, C. (1999) 'The Welfare State between New Stimuli and New Pressures: Austrian Social Policy and the EU', *Journal of European Social Policy* 9 (4): 351-361.

Tálos, E. and Falkner, G. (1996) 'Österreich in der EU: Erwartungen – Gegenwart – Perspektiven', in: E. Tálos and G. Falkner (eds) *EU-Mitglied Österreich. Gegenwart und Perspektiven*, Wien: Manz.

Tálos, E. and Kittel, B. (2001) *Gesetzgebung in Österreich*, Wien: WUV/Universitätsverlag.

Urlesberger, F. (1990) 'Die Marginalisierung Österreichs im europäischen Integrationsgeschehen nach Auflösung der OEEC/EZU', in: W. Hummer (ed.) *Österreichs Integration in Europa 1948 – 1989*: Wien.

Van der Bellen, A. (1996) 'Budget: Entgleisung im Schatten von Maastricht', in: E. Tálos and G. Falkner (eds) *EU-Mitglied Österreich. Gegenwart und Perspektiven: Eine Zwischenbilanz*, Wien: Manz.

Weber, K. (1996) 'Der Föderalismus', in: E. Tálos and G. Falkner (eds) *EU-Mitglied Österreich. Gegenwart und Perspektiven*, Wien: Manz.

Weiß, F. (1993) "'Gesamtverhalten: Nicht sich in den Vordergrund stellen". Die österreichische Bundesregierung und die westeuropäische Integration 1947-1957', in: M. Gehler and R. Steininger (eds) *Österreich und die europäische Integration 1945 – 1993*, Wien: Böhlau.

Wimmer, N. and Mederer, W. (1990) *EG-Recht in Österreich*, Wien: Manz.

## Endnotes <sup>↑</sup>

(\*) An earlier version has been presented at the 4<sup>th</sup> Pan-European International Relations

Conference, Canterbury, UK, September 2001. Thanks to the participants and audience of Section 11's Panel 1: *Europeanisation: Adaptation or Transformation of Europe's Nation States*, to the constructive panel commentator Madeleine Hosli, and to the EIoP referees.

**Note** that two minor typing errors were corrected on 11/01/2002: link to error1, to error2.

(1) Following Ladrech (1994: 69), I understand here "Europeanization as an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making".

(2) On each of these dimensions individually, articles or books have already been published (see list of references).

(3) Above all the European Economic Community (EEC) as a supranational institution with the goal of an "ever closer union among the peoples of Europe", see Art. 2 of the preamble of the founding treaty.

(4) On the basis of Art. 138 EEC Treaty.

(5) For details on the Austrian path towards membership see Kunnert 1993.

(6) This expressed that an industrialisation of agriculture was not desired in Austria where small units and family management were still common.

(7) The Agreement was, after intricate negotiations, concluded on 2 May 1992 in Porto. It came into force by 1 January 1994 but did not satisfy Austrian desires from the outset. The leading idea had been legal unity in the European Economic Area (for many but not all policy areas, notably not for agriculture), but in the end this implied that the EFTA states basically had to accept what the EC members negotiated among themselves.

(8) On the background of these applications, see Luif 1994 with further references.

(9) For an overview on EU enlargement negotiations and strategies, see Falkner and Nentwich 2001.

(10) It seems that what the Council had still rejected in the Greek case, i.e. longer pre-accession periods and an early rapprochement to the *acquis communautaire*, has since shown beneficial effects in the EFTA enlargement round (EFTA-EC free trade since the 1970s; EEA since 1994) – and will thus be applied systematically in the future. For sure, the German Democratic Republic was treated as a special case when it entered the Federal Republic of Germany on 3 October 1990 (Kohler-Koch 1991).

(11) This status allowed for interventions but not votes.

(12) For a full analysis of these aspects see Falkner 2000.

(13) For details of the constitutional changes see Griller 1991.

(14) On contents and process of the debate see Schaller 1994.

(15) Only a specific empirical analysis could confirm that such a development has actually taken place. In the absence of such a study, one can merely point to a few recent examples of conflicts of interest (Falkner 1998) without as yet generalising.

- (16) Understood in a broad sense, including the EU as the "first level" (Jeffery 1997).
- (17) German original: "zwingende außen- und integrationspolitische Gründe".
- (18) Austrian "constitutional law" needs a two-thirds majority in the *Nationalrat* and, if *Länder* competencies are at stake, even the assent of the *Bundesrat* (Article 44 Paragraph 2 of the Austrian Constitution).
- (19) The Austrian Social Democratic Party.
- (20) The Christian Democratic Austrian People's Party.
- (21) For more information from extensive interviews with Austrian MPs, see Falkner and Müller 1998.
- (22) During the preparation of Austrian EU positions, the social partner associations participate in relevant meetings, which are organised at the sub-ministerial, departmental and cross-ministerial levels (Kittel and Tálos 1999).
- (23) "[G]leichberechtigte Teilnahme an der österreichischen Entscheidungsvorbereitung und Entscheidungsfindung im Rahmen der EU" (pt. 13a).
- (24) It should be mentioned that, at least, the social partners were once again privileged during the preparation of Austrian EU accession. Other interest groups were neither guaranteed supply of information (which is an important resource for the social partners) nor consultative rights. It is thus no surprise that environmental groups, for example, now claim to have an even harder life than before EU accession (Steiner and Trattnigg 1998). It seems that what Beate Kohler-Koch (Kohler-Koch 1998) concluded for the regions also holds true for interest groups: Europeanisation offers manifold additional opportunities for all national actors, but only the ones with adequate resources can actually seize them.
- (25) Social affairs is the field with best practice from the economic interest groups' point of view, contrary to finance and agriculture.
- (26) For details on the Austrian preparation of EU-level decision-making and interministerial coordination, see Luif 1998; Morass 1997, Morass 1996.
- (27) See for example Goetz 1995; Ladrech 1994; Börzel 1999; Rometsch and Wessels 1996; Schmidt 1999a, Schmidt 1999b, Schmidt 1997, Schmidt 1996.
- (28) Which in real terms has during the second half of the 20<sup>th</sup> century meant a consensus between the Social Democrats, the People's Party and their related social partner organisations
- (29) Even where unanimity is still the EC Council's decision rule (in other cases, the one government controlled by each national parliament can in any case be outvoted by the other fourteen governments).
- (30) For an overview of many more policy areas, see Tálos and Falkner 1996.
- (31) Case C-205/98, decision 26 September 2000.
- (32) Document annexed to III-176 *BlgNR XVIII GP*. This passage is quoted in Luif 1995.

(33) Government initiative proposal on changes to the constitution with a view to membership, *Regierungsvorlage zum Beitrittsverfassungsgesetz*, 1546 BlgNR XVIII GP, 9.

(34) See Falkner 2001.

(35) The basic principles are laid down in Article 6 TEU: the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.

(36) What always made this strategy seem risky is near monopolistic private ownership of certain kinds of print media that are rather open for populism, on the one hand, and predominantly state-owned TV, on the other hand, where manifold intervention pathways for the new political elite exist.

(37) This is why there is little detailed and comparative research so far. For information on a forthcoming study on the transposition and application of seven labour law Directives in all fifteen member states see [http://www.mpi-fg-koeln.mpg.de/fo/multilevel\\_en.html#Proj5](http://www.mpi-fg-koeln.mpg.de/fo/multilevel_en.html#Proj5).

(38) The latest available statistic is (Commission of the European Communities 2000b).

(39) I am grateful to Charlotte Buttkus for research assistance.

(42) It is interesting that support for one *common foreign policy* (60%) and support for a *common defence/security policy* (59%) are surprisingly high in Austria despite the fact that neutrality had always been highly regarded in national opinion polls. At the end of 1999, 68% of Austrians said in a national poll that they supported participation in a European security system. By the same time, 61% supported the principle of neutrality, but only a relative majority of 47% was still sure that neutrality was taken seriously by the Austrian political elite (*Der Standard*, 20 December 1999).

(43) During the pre-accession phase, politicians tended to downplay the institutional and policy changes attached to EU-membership while highlighting optimistic estimations of economic benefits. As a consequence, many Austrians feel that they were not always well informed on forthcoming adaptive pressures. Additionally, the EU has been used as an external justifier for changes in fact desired by domestic actors. Considering that adaptations of sometimes highly symbolic and quite unpopular kinds were enforced, it is hardly surprising that Euro-scepticism now looms large in numerically great parts of the Austrian population.

(44) Since the FPÖ is split on this issue, government participation of that party has not in general hampered the implementation record.

(45) That is, to date, rejected by the other parties.

(46) It will not suffice in that respect to use veto threats as bargaining chips in EU-level negotiations as increasingly practised by the Austrian elite (most recently, the closing of chapters in the enlargement negotiations has been denied with a view to the Temelin nuclear power plant in the Czech Republic and to the transit issue).

## Table I

### Member States' infringement proceedings

Rank	Member State	Number of new proceedings in 2000
1	France (F)	27
2	Italy (I)	24
3	Greece (Gr)	23
4	Ireland (Irl)	17
5	Luxembourg (L)	16
6	Netherlands (NL)	12
7	Germany (D)	11
8	Portugal (P)	10
9	Austria (A)	8
10	Spain (E)	8
11	Belgium (B)	5
12	Finland (SF)	4
13	Great Britain (GB)	4
14	Sweden (S)	3
15	Denmark (DK)	0

## Table II

### EU membership is a good thing (in %)<sup>(40)</sup>

	Eurobarometer No.	Austria	Peak	Low
1995	44 <sup>(41)</sup>	30	NL (83)	A (30)
1996	45	27	I/ Irl/NL (75)	A (27)
	46	31	Irl (76)	S (27)
1997	47	30	Irl (80)	S (27)
	48	31	Irl (83)	A/ S (31)
1998	49	36	Irl (80)	S (32)
	50	38	Irl (79)	S (35)
1999	51	36	Irl (78)	UK (31)
	52	42	Irl (82)	UK (29)
2000	53	33	Irl/L (75)	UK (25)
	54	38	L (79)	UK (28)
2001	55	34	Irl (72)	UK (29)

(40) Generally speaking, do you think that (our country's) membership of the European Union is...?  
(a good thing/ a bad thing/ neither good nor bad) [A good thing].

(41) As quoted in Eurobarometer Nr. 45 as reference value.

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