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The German Presidency of the Council of the EU

Leading Europe across the Rubicon

The German Presidency of the Council of the EU takes place against the backdrop of the COVID-19 pandemic, as the EU, along with the rest of the world, needs quick and bold action to adapt to the resulting tectonic changes. These circumstances have pushed Germany to lead the Union across the Rubicon in regard to the future of the European project. In fact, Germany's ambitious Presidency program reflects its renewed strategic outlook by instigating the EU's recovery and ushering a path towards further integration. For this reason, the decisions made during Germany's term have the potential to become a critical juncture for Union's further evolution.

With the aim of uncovering what may lie ahead for Europe in the following period, this Insight examines Germany's long-term vision for Europe, analysing its Presidency program and scrutinising Germany's positions on the pressing questions of the EU recovery fund and Multi-annual Financial Framework, climate and the environment, rule of law conditionality, and EU common foreign and security policy. At the same time, it analyses the place of the Western Balkans in such a complex network of priorities.

Kick-starting the EU's recovery

The key challenge of the German "Corona Presidency" is the issue of the EU's recovery from the social and economic consequences of the COVID-19 pandemic. Considering the initial sluggish response and coordination, especially when it comes to the outbreak of the pandemic in Italy, Germany's programme stresses the need for coordinated deliveries of medical aid and supplies, mutual support in treating patients, and upholding and safeguarding supply chains. Other elements include the gradual lifting of restrictions on movement imposed in the Schengen area, as well as a return to the coordinated protection of external borders. The programme recognises that without mutual solidarity and a functional single market, the EU will not recover. This is why Germany will primarily focus on establishing recovery instruments consisting of immediate and short-term assistance to member states in need, and long-term, joint mitigation measures to address the consequences of the pandemic.

Germany's presidency coincided with the finalisation of discussions on the new Multiannual Financial Framework (MFF) – the EU's budget for the 2021-2027 period. At the same time, it undertook the development of Next Generation EU (NGEU), a financial instrument proposed by the Commission to assist in economic recovery from the consequences of the pandemic, incorporating the main elements from a Franco-German initiative outlined in May 2020. The importance of successfully determining the MFF and the NGEU has been twofold. Firstly, the effects of the crisis on the 27 member states have been uneven. While some economies have been able to weather the storm thanks to subsidies and stimulus packages, others have been hit very hard. This glaring disparity in economic consequences could have dire repercussions on the EU economy, crucially for the stability of the single market. Secondly, politically speaking, the MFF and NGEU have been perceived as once-in-a-generation chances to advance the EU's cohesion, solidarity, and integration, as well as to dissuade populist political forces across the EU.

Following one of the longest negotiations in the European Council's history – spanning over the course of five days - the new MFF as well as the NGEU were agreed upon. On the one hand, the MFF was settled at €1.074 trillion, a €60.3 billion (5.3%) decrease from the Commission's 2018 original proposal, with significant cuts to the research and innovation sectors. On the other hand, the NGEU will incur the Commission borrowing €750 billion from financial markets to be repaid between 2028 and 2058. These resources will be divided between member states in the form of both grants and loans. The NGEU is an unprecedented move, as it involves the first real instance of debt mutualisation in the EU, whereby the Union borrows on behalf of the member states. This means that the debt incurred would be borne by the EU, and as such is a decisive step towards further fiscal integration.

Although the total size of the original NGEU proposal remained unchanged, negotiations resulted in the decrease of the proportion of grants (from €500 billion to 390), while the share of loans was increased (from €250 billion to 360). Furthermore, up to 70% of the recovery funds will be committed in 2021 and 2022, with the remaining 30% to be mobilised by the end of 2023. It was also agreed that recovery funding to member states will be tied to their national recovery plans, obliging member states to present individual reform agendas in order to unlock the funding. Moreover, the distribution of funds would be based on the economic damage individual member states have suffered as a consequence of the pandemic rather than pre-crisis growth and unemployment figures.[1]

1. The agreement on the MFF is still subject to approval by the European Parliament, whose members have already threatened to withhold their consent unless changes are made. However, considering how difficult it was for EU27 leaders to agree on the existing proposal, no significant changes that could cause the protraction of negotiations are expected, as finalising the work on all relevant legal acts needs to be done by the end of this year.

The new MFF has also confirmed the EU's solidarity with aspiring member states, as a new Instrument for Pre-Accession Assistance has been included, as expected. However, the EU27 have agreed to increase this portfolio by only 6.8% as compared to the previous programming period (providing an additional €800 million, totalling €12.5 billion), while refusing the Commission's proposal to increase the fund by 10.2% (an additional €1.2 billion, totalling €12.9 billion). Considering that the region's economic convergence gap with the EU is widening, there are high expectations for the upcoming Economic and Investment Plan for the region, to be announced this autumn.

Towards a climate-neutral Europe

The German presidency pledges to dedicate itself to working towards the development of a "sustainable Europe." This involves a transition to a sustainable economy through a variety of policies regarding topics such as biodiversity, emissions reductions, and energy policy, and taking inspiration from the UN 2030 Sustainable Development Goals. This focus on sustainability comes as no surprise, given that Germany has long been actively committed to green policy, supporting renewable forms of energy, energy conservation, alternative transport, recycling, as well as taxing "environmentally unfriendly" activities and abandoning harmful forms of energy.

A crucial element of this goal is the commitment to supporting the "European Green Deal". Presented as a flagship project by the incumbent Commission, this is an ambitious strategy, with the goal of making the EU climate-neutral by 2050. This is to be achieved through wide-reaching regulations and legislation, including proposals for a European Climate Law, and revisions of relevant legislation, revision of energy taxation, and carbon border adjustments, to name a few. Furthermore, it envisions the allocation of resources for subsidising green measures and technology, as well as investing in sustainable technology. The significance of this ambitious project is massive, with President of the Commission von der Leyen calling it "Europe's man on the moon moment". And indeed, utterly transforming the way the bloc functions in terms of energy and green technology, and placing the well-being of citizens and the environment above all else would be a giant leap for mankind.

That said, the ongoing COVID-19 crisis has exposed the difficulties of carefully balancing the aspirations of the Green Deal on one hand and economic recovery in the wake of the pandemic on the other. Indeed, European institutions and national governments have been focused on crisis management and keeping everything afloat, scrambling to prop up business and industry and ensure minimal economic fallout. Prior to the conclusion of negotiations on the MFF and NGEU in the European Council, there was real fear that significant funding may have been redirected to salvaging economies, with further funding for high-carbon entities, which would have jeopardised the vision of the Green Deal.

Yet, thanks to the committment of German leadership, a focus on "green recovery" was retained. Following negotiations on the new MFF and NGEU, it was agreed that 30% of expenditures would be earmarked for achieving environmental goals. Such a share of the budget devoted to meeting the EU's climate targets is clearly a precedent compared to previous budget cycles. However, critics claim that even this is not enough, as some experts propose that up to €2.4 trillion may be needed solely for low-carbon investments by 2027 for the EU to meet its current emissions-cutting goals. Moreover, they also claim that the final deal lacks concrete safeguards and the accountability of member states to follow through with its envisioned goals.

The Green Deal and its anticipated measures will have direct implications on the Western Balkans. Namely, the Green Deal explicitly stipulates the EU's support for ecological transition in its immediate neighbourhood, given the transnational character of climate and environment-related issues, and announced that the work on the "green agenda" for the region was already underway. Although energy systems in the Western Balkans are already partially integrated with those of the EU, the issues of air pollution and the ecological footprint caused by the region's carbon and fossil fuel industries call for the greater integration of the region into the EU's green policies. All things considered, Serbia and the other states of the region, in light of their EU membership aspirations, should expect Germany's strong commitment to this cause and insistence on substantive adjustments regarding climate and environmental policies.

Rule of law (and EU member states)

As the EU's propeller and a strong advocate of liberal values, Germany understands well that the functioning of the EU's major achievements, such the single market, the Eurozone, and the Schengen area, are dependent on the proper application and enforcement of EU legislation. Therefore, its Presidency has crafted a rather ambitious rule of law agenda. This agenda coincides with the release of the first Annual Rule of Law Report by the European Commission, expected this September. This report is envisaged to be a culmination and materialisation of the findings of the "Rule of Law Review Cycle", an initiative launched by the Commission in 2019, which is supposed to strengthen rule of law in the EU and complement the existing instruments.[2]

In short, this novel mechanism consists of three complementary measures. First, it aims to *promote* a common, rule of law culture, through support to education, civil society, and national parliaments. Second, its goal is to prevent rule-of-law backsliding through the stronger monitoring of developments in member states, the early detection of rule of law-related problems, and the mutual exchange of information and dialogue. Finally, it aims to *enforce* rule of law at the EU level more effectively when national mechanisms fail, through expedited infringement proceedings and interim measures.

2. They include the Commission's Rule of Law Framework, the Council's Rule of Law Dialogue, the Commission's infringement proceedings, and the Article 7 preventive and sanctioning mechanisms of the Treaty on EU).

In this context, the German Presidency plans to convene (as explicitly stated in its programme) a political rule-of-law dialogue with all member states, foster a better understanding of the situation in each member state, identify risks at an early stage, and offer reciprocal support. While the effects of this new mechanism are impossible to predict, Germany is likely to keep the expectations high regarding the content of the mentioned Annual Rule of Law Report and the impact it would produce, as a country that strongly believes that the proper functioning of rule of law is inextricably linked to economic prosperity and social wellbeing. Although these developments are encouraging, critics have already labelled this new mechanism "naïve". Namely, they worry that the planned dialogues and the legal sanctions cannot be last-resort solutions, when some member states deliberately cause backsliding in terms of rule of law, and when the activation of Article 7 mechanisms has hitherto failed to trigger reversals of negative trends in those countries. Instead, critics believe the application of the new mechanism will leave essential problems for rule of law unresolved.

Likewise, the German presidency has supported the Commission's proposal to make EU budgetary funding conditional on respect for rule-of-law standards in member states. Namely, in 2018 the Commission published a proposal for a "Regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States", with the rationale that effective rule of law is a precondition for the proper use of the EU's financial instruments. This proposal sets far-reaching, if not revolutionary, measures for sanctioning member states by limiting their access to EU funds based on poor perforamance in rule of law.[3] While the European Council's conclusions on the MFF and NGEU made no direct reference to this regulation, its spirit has been set in stone, as the conclusions do in fact stipulate that a "regime of conditionality to protect the budget and Next Generation EU will be introduced". The Commission is expected to propose such protective measures to the Council, to be adopted by a qualified majority vote. The German Presidency announced it would put this issue on its agenda after the summer break.

Although such an outcome left many experts disappointed, and while its ambiguous formulation is subject to divergent interpretations, it must be acknowledged that it does represent a milestone in beefing up capacities to protect rule of law in the EU. The urgency to reach a prompt budget agreement did not lend favour to member states (such as Germany) pushing for greater rule of law conditionality. Nevertheless, the explicit mention of the need for a qualified majority vote to adopt this mechanism enables outvoting those member states strongly opposed to this mechanism – Hungary and Poland being the most outspoken. This is in stark contrast with the existing sanctioning mechanism under the Article 7 procedure, which has proven futile so far as it requires a unanimous vote of member states.

Germany's insistence on forging a more robust and coherent rule of law framework is expected to reverberate strongly on future developments regarding this issue within the EU. However, as long as political authorities in several EU member states deliberately challenge the EU's fundamental values and laws, and no effective sanctioning mechanism is in place, it is difficult to expect fixes in either the immediate or medium term in this area. The mentioned initiatives come together with the beginning of the application of the revised approach to EU accession negotiations with the Western Balkans, which also puts additional emphasis on rule of law. For both processes – in the EU itself and in the accession context, the amalgam of strengthened political will, the affirmation of rule of law, and the impact of monitoring and evaluation resources will be crucial for success.

Germany's Renewed Strategic Outlook

As the EU becomes isolated on the world stage - not only due to the growing competition with China and its traditional rivalry with Russia, but also due to increasingly strained relations with the US - the Council Presidency might be used as a steppingstone for Germany to become less reluctant in assuming a leadership position, making the EU a more active player. This trend is not just evident from Germany's public calls to boost the internal integration of the EU – such as shared borrowing and a joint recovery plan – but also from calls for the strengthening of the Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP). In fact, Germany's increasing willingness to engage in the spheres of foreign and security policy is not entirely new, as in the past years it has called for exploring moving from unanimity to qualified majority voting in CFSP, the establishment of a European Security Council, the creation of an EU army, applying the Permanent Structured Cooperation (PESCO), and creating the European Defence Fund (EDF). Therefore, although Germany is commonly seen as an economic powerhouse struggling with how to deal with changing international political order, its Presidency is likely to be ambitious regarding the EU's integrated approach to global threats.

Such a gradual shift in Germany's worldview became noticeable in the aftermath of the 2016 Brexit referendum. With the UK out of the picture – whose orderly departure Germany strongly supported - the traditional equilibrium of power in the EU, shared between Berlin, Paris, and London, was permanently disrupted. With the axis now sitting between a more federalist and less Atlanticist-oriented France, and a Germany hitherto typically seen as a reluctant hegemon, the latter was nudged into rethinking its approach. Calls for further internal integration and stronger external action became more frequent and louder after

3. One such mechanism, for instance, include the use of reversed qualified majority vote: member states can block a Commission proposal for imposing sanctions only if a qualified majority vote is ensured (55% of the EU's countries and 65% of the EU's population). This mechanism would make it harder for member states to block the Commission's initiatives and would thus render the decision-making process more rapid and effective.

Germany has recognised that the COVID-19 pandemic represents the ultimate crisis, demanding the highest degree of common and united action. With new challenges shaking the foundations of the EU, the stage was set for Germany to cross some of its "red lines" and develop a new strategic outlook, especially in terms of to strengthening the EU's global role.

In fact, one of Germany's key realisations is that the EU has been overdependent on China, considered by the EU as a "systemic rival" in its promotion of alternative models of governance. This overdependence is particularly visible in the fact that the EU imports most of its essential products in the health sector from China. Considering that facing this Asian giant will be, as stated by Chancellor Merkel, one of the key priorities of the Presidency, Germany has started playing up the term "European sovereignty" in the months prior to assuming the Presidency. Increasingly popular in Germany's diplomatic playbook, according to Germany's Minister of Foreign Affairs Heiko Mass, this policy concept aims to enable Europe to act more independently and pool its resources more efficiently, especially in essential sectors such as health and medical supplies, 5G and information technologies, logistics, energy, and others. Considering these intentions, the terminological focus on "European sovereignty" rather than "EU sovereignty" is all but a coincidence. As such, the concept leaves enough room to better integrate the Western Balkans - as an important piece of EU's geostrategic puzzle - into the EU's strategic thinking, in order to enhance Europe's resilience and autonomy while continuing to work toward a rules-based multilateral order.

As the Western Balkan region is becoming increasingly appealing to third-party actors, particularly China, Germany is likely to keep a watchful eye on the Western Balkans both during and after its Presidency. In an attempt to go beyond its traditional approach to the region, consisting of active support to enlargement policy while insisting on strict conditionality, Germany has already recognised the Western Balkans as a matter of "strategic interest" for the EU in its Presidency Programme. It has also defined "disruptive influences in the region" as an outstanding issue in the Trio Programme (shared with Portugal and Slovenia), while also making calls to strengthen resilience against hybrid threats and disinformation (particularly through closer cooperation in the areas of CFSP). Such calls were made in order to make sure the region stays on track as a credible partner with whom the EU can coordinate activities on the regional and global levels. Therefore, despite the busy agenda during its Presidency, Germany will almost certainly find sufficient time and energy for a principled defence of the EU's interests in the Western Balkans.

The Future is Now

As this Insight has shown, a unique set of circumstances have pushed Germany into assuming leadership and guiding the Union through the challenges it currently faces. On this path across the Rubicon, Germany has strongly advocated for debt mutualisation in the context of NGEU negotiations, a major step towards the wider goal of fiscal integration at the EU level. Germany is also an ardent supporter of the Green Deal – which will also benefit from substantial budgetary increases in the new MFF. Furthermore, Germany will not leave issues of rule of law unaddressed, as they threaten the smooth functioning of the EU's Single Market, the Schengen area, and the Eurozone. Finally, Germany's ambitions regarding external action reflect an increasing willingness to "come out of its shell" and set in motion major changes in the EU.

All things considered, the German Presidency of the Council of the EU is a crucial opportunity for reinvigorating the project of European integration. The outcomes of the European Council negotiations on the MFF and NGEU have paved the way in this regard. In the short term, Germany's role is likely to have a stabilising effect on the Union, while in the long term it could result in the EU's consolidation, deepening, and enlargement. The countries of the Western Balkans should thus acknowledge the current momentum and step forward as constructive and reliable partners in crafting Europe's future, in order to emerge from the current global crises stronger and wiser.

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