
P A R A D I G M S

The German Federal States, the Federation and European Integration The Historical Dimension of German History in Europe, Problems and Perspectives

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“The sovereign nations of the past are no longer the units within which the problems of the present can be solved.”
(Jean Monnet)

1. Introductory Remarks

IN HIS popular book *The World is Flat* Thomas L. Friedman argued that 11/9, i.e. the fall of the Berlin Wall on 9 November 1989, was one of the major events which changed the world¹ and brought about the end of the so-called Cold War, overcame the division of Europe, led to the demolition of the “Iron Curtain” and the breakup of the Soviet Union and reunited the German people after a separation of 40 years. There was an impact of 11/9 at various levels:

- The categories of international policies were no longer valid.
- There were new openings and chances for the states which had been under communist rule since 1945/1948.

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- The threat of nuclear annihilation seemed to be gone and the “Atomic Balance” as well.
- There was a resurgence of nationalism and ethnic conflicts.
- The European map was redrafted.
- How could the states of Central-Eastern, Eastern and Southeastern Europe “return” to the European fold?
- What ways could be found to integrate these states politically, socially and economically into the West-European system of the European Communities?
- How could their security interests be satisfied?

We have to keep in mind one formula which is still valid today: “German history is at the same time also European history, and European history is always highly influenced by the history of the heartland of Europe.”² In dealing with the debate on and perception of Europe in Germany and the European role assigned to Germany in the European society of nations, with the immediate and long term impact of (West) European integration since World War II we will have to keep in mind the historical framework, how German history in the 19th and 20th centuries was perceived by her European neighbors and also the historical traditions influencing the perceptions of “Germany in Europe,” i.e. the national and domestic and the European and international conditions for postwar and post-Cold War Germany within a European framework.

1. The *German question*—or as Germany’s neighbors like to call it, the *German problem*—and its solution, without doubt, played and still plays an important role for Germany’s European neighbors and for the Germans as well. Therefore the issue on the agenda has been Germany’s role in the reconstruction of Europe and how to integrate Germany into the European order after World War II.³

2. When war ended in Europe on 8 May 1945, when Hitler’s pursuit of world power, European hegemony and the foundation of a European Economic Community (*Europäische Wirtschaftsgemeinschaft*) failed and the National Socialists gambled away Germany’s great power status, it was quite uncertain if there would be a *German nation state* re-established after the war as an integral part of the new European postwar order. A united Europe for the Germans thus might substitute a German nation state.⁴ Additionally, especially in the early 1950s, we have to take into account the tensions and conflicts between the concepts “German unification first” and “German unification through integration of the European democracies.”

3. *Federalism* has a long-standing historical tradition in Germany. A federal order seemed to be the natural political structure binding together the German nation. Despite the polarization between the idea of a centralized state and that of a federal state as the best means to ensure the unity of the German na-

tion, German statehood since the 19th century was organized on a federal basis. The German idea of federalism differed from the American “dual federalism” approach.⁵ The Federal Republic of Germany, founded in 1949, is a federal state. Thus for many decades Germany was the only federal state among the European democracies involved in the process of European integration since 1948–1949.⁶

Germany is a federal state. Therefore the German Länder demand to participate in the process of European integration and unification. Thus, in the German case, we have to consider the *triad between the Federation, the German Länder and the process of European integration*. This process was initiated in 1950 when West Germany joined the Council of Europe and negotiations started for the creation of the European Coal and Steel Community (ECSC) in 1950–1951.

4. Ever since the Federal Republic of Germany’s first moves towards a closer cooperation and integration of the European democracies in the early 1950s, any federal government faced the *dilemma of working for European integration and at the same time keeping the national question open*, i.e. the obligation written into the preamble of the Basic Constitutional Law to work for the unification of the German nation. This turned out to become a major dilemma since the Treaties of Rome ratified in 1957, and especially since the early 1980s when the process of West European integration was speeding up: the draft proposal of the European Parliament for a European Constitution in 1984, the European Single Act 1986 and Jacques Delors’ “Europe 92” program.⁷

5. When *German unification* came about in 1989/90 and the EC, after some hesitation, was functioning to some extent as a midwife for German unity, there were new dilemmas the new Germany had to face, namely, to achieve the task of dual integration, i.e. to work successfully for domestic integration of the old Federal Republic and the former GDR, and at the same time take on the role as a promoter of European integration and European unification.

In discussing the German discourse on and perception of Europe at the level of the federation, of the federal states and the EC/EU, and how European unity should or might be achieved between the end of World War II and the European Constitutional Treaty and the Basic Treaty of Lisbon, we have to keep in mind the historical framework for the German ideas, concepts and perceptions on Europe. I shall neither deal with the German debate on Europe in the 1940s, nor with the European ideas of German politicians of the 1950s and 1960s like Konrad Adenauer,⁸ Walter Hallstein,⁹ Carlo Schmid,¹⁰ Franz Josef Strauss¹¹ and others, and the dilemma the Federal Republic had been facing since the 1950s as far as the national question was concerned. My considerations will focus on the German Länder and their understanding and perception of their rights and their

participative role in the European process between the founding of the Federal Republic of Germany and the enlargement of the EU in 2004.

Broadly speaking the six aspects discussed above, especially the *German question*, the *perspectives for a national state of the Germans* after the war and *federalism* to a large extent influenced and shaped the German debate among politicians at all levels, from the local communities and the Länder to the Federation (Bund), citizens and intellectuals. Because of the experience of Nazi Germany and the uncertainty of a German nation state in postwar Europe, the large majority of concepts and considerations concerning “Germany in Europe” and “Germany and Europe” followed along federal lines, despite changing historical contexts over time. This was true for the period between 1945 and 1949, for the formative period of the European organizations between 1949 and 1957 (Council of Europe, European Coal and Steel Community, European Defence Community, European Political Community, European Economic Community, European Atomic Community) as well as for the 1960s and 1970s and the new attempts since the late 1980s. German unity, which came about in 1990, added a new dimension to the necessity to proceed towards the ‘finalité’ of the construction of Europe.

The process of the integration of European democracies since the early 1950 created two additional problems in the German case, which had to be kept in mind and which came to the fore after the ratification debates in the German Bundestag and the German Bundesrat on the Paris Treaty creating the European Coal and Steel Community (1951), the failed Treaty on the establishment of a European Defence Community (EDC) and a European Political Community (EPG), combined with the Germany Treaty (1952) and the Treaties of Rome (1957) establishing the European Economic Community and the European Atomic Community, namely, the wish of the German Länder to safeguard their rights and interests directly in community affairs¹² and the growing dilemma of the federal governments to ensure the obligation to work for German unity and at the same time to promote the process of economic and political integration according to the European “Community idea.” Starting with the mid-1980s, when the process of European integration was accelerating, the dilemma German unity versus/and European integration provoked debates in the Federal Republic in an attempt to eliminate the German unity clause from the preamble of the West German Basic Constitutional Law.

2. The German Länder (Federal States) —The Federation—European Integration (1949–2004)

SINCE THE early 1950s West Germany has been one of the major protagonists of the (West-) European integration.¹³ This was due to political, security and economic interests. In order to achieve the status of an equal partner in European negotiations it was highly important for the federal government to regain as much sovereignty as possible. The Bonn government, because of the unsolved German question, had to safeguard German national interests in any activities and negotiations for a transnational European organization to be established. Thus in 1957, when the German Bundestag was discussing the Treaties of Rome, Walter Hallstein, at the time undersecretary of state for Foreign Affairs, in a declaration for the federal government referred to

*the deplorable fact that Germany is integrated into the new European Community burdened with the political mortgage of forced division. But it is also true that no German federal government, irrespective of its composition, will ever approve of a deepening of German division.*¹⁴

Besides the national question there was another issue, which had been on the agenda ever since the early steps of the Federal Republic towards European integration and which is still a problem in the relations between the Federation and the German Länder, i.e. the role, the rights and the obligations of the Länder in the process of European integration.¹⁵

When in 1948–1949 the Parliamentary Council was negotiating and discussing the future constitutional framework for the constitutional provisional arrangements for a German State in the West (*Provisorium*) and was adopting the Basic (Constitutional) Law on 8 May 1949, setting up a unitary federation (*Unitarischer Bundesstaat*), neither the members of the assembly nor the Western occupying powers realized the long-term consequences of the “constitutional compromise” agreed on in 1949, i.e. its impact on the rights, competences and jurisdiction of the Länder and the Federation on issues of European integration. In the early 1950s the Federal Republic of Germany became one of the European democracies who participated in the process of an ever closer cooperation and unity in Western Europe: 1949, the Council of Europe, which the Federal Republic joined in 1950 (COE); 1951–1952, the European Coal and Steel Community (ECSC); 1957, the European Economic Community (EEC) and the European Atomic Community (EAC). West Germany was the only federation at the time, when the process of integration was initiated. The Basic Law assigned

the right to conclude international treaties to the federation. This meant a minor problem for the Länder when the Federal Republic joined the Council of Europe. The Länder, however, in the ratification debate in the German Bundestag and in the Federal Council, claimed half of the seats for the German Länder, but failed in the end.¹⁶ But already at this point the Länder were asking for equal representation of the Bundestag (“Federal Diet”) and the Bundesrat (“Federal Council”).¹⁷ This changed, however, when the Federal Government negotiated the Treaty for the European Coal and Steel Community in 1950–1951, establishing a supranational High Authority in the city of Luxembourg alongside a Parliamentary Assembly, a Council of Ministers and a European Court. This treaty had a direct impact on the rights and jurisdiction of the German Länder. During the discussions in the ratification process the Bundesrat was considering to take the government to the Federal Supreme Court in order to safeguard the rights of the German Länder.¹⁸ In 1951 the Länder did not succeed in their efforts to participate directly in any negotiations at a European level and to be informed in advance by the federal government on the issues and problems. Ever since the battle over the ratification of the Treaty establishing the European Coal and Steel Community, however, the German Länder improved their position in the Federation–Länder–European institutions triad. On 19 July 1957 the Federal Council, after debates on the impact of the EEC Treaty on the national question and the influence of the Länder in European affairs, unanimously adopted the “Roman Treaties.”¹⁹ The federal government was obliged according to article 2 of the law implementing the Treaties of Rome (the EEC Treaty and the EAC Treaty) to inform in advance the Bundesrat and the Länder about European projects and initiatives.²⁰ The right of the Länder provided by federal law in 1957 was not adequate, however, to keep up with the growing pace of European integration and the necessary actions to protect the interests of the Länder. The European integration process from the early 1960s to the 1980s increasingly interfered with the jurisdiction of the Länder in their genuine areas of competence like education, cultural affairs, regional policy and broadcasting corporations, and the Federal Council on several occasions referred to this intrusion upon its competences.²¹ It turned out that it had been a severe mistake of the Federal Council in 1957 to have given away thoughtlessly its demand for direct participation in European affairs. This changed when the “Single European Act” was signed in Luxembourg on 17 February 1986. Besides, for ratification the Bundestag and the Federal Council had to vote on the bill on the Single European Act with a 2/3 majority.²² In the early stages of the ratification process the Bundestag and the Federal Government were not prepared to concede rights to the Länder beyond the legal provisions of 1957. When the Federal Council

insisted in its resolution of 16 May 1986 on immediate participation in the domestic (*innerstaatlich*) decision-making process and contended that this right should be inserted into the Basic Law,²³ the Foreign Affairs Committee recommended to the Bundestag to adopt a revised version of the bill on the Single European Act by including article 1a which committed the federal government to inform the Federal Council and the Länder at an early stage about plans and considerations of the EC that were of interest to the Länder.²⁴

Despite the strengthened position of the Länder in European affairs, the regulations could be bypassed. Thus the Länder decided to set up their own “embassies” in Brussels, to lobby directly at the European Commission and to delegate officials from their governments directly into directorates of their Land-interests, which differed according to the structure (e.g. industry, tourism, agriculture, transport, and environment).

After the unification of 1990 and the signing of the Treaty of Maastricht in 1992 the German Länder received a new chance to improve their status and position in the European institutions–Federation–Federal States triad. There were fierce debates in the committee to insert a “Europe” article into the Basic Law, which would replace the old article 23 that had provided the constitutional basis for the accession of the Länder of the GDR to the Federal Republic of Germany on 3 October 1990.²⁵ The new article 23 of the Basic Law is vital for improving the constitutional position of the Länder in EU affairs. In the process Germany shifted to some extent from a “unitary” federation towards a more “federal” federation. The European Union article describes the rights and obligations of the federation and of the federal states²⁶:

*(1) With the view to establishing a united Europe, the Federal Republic of Germany shall participate in the development of the European Union that is committed to democratic, social, and federal principles, to the rule of law, and to the principle of subsidiarity, and that guarantees a level of protection of basic rights essentially comparable to that afforded by the Basic Law. To this end the Federation may transfer sovereign powers by a law with the consent of the Bundesrat . . .*²⁷

The following clauses provided the right of the Bundestag and the Federal Council to “participate in matters concerning the European Union,” to be informed “comprehensively and at the earliest possible time.” Article 23 (4) ruled that the Federal Council “shall participate in the decision-making process of the Federation insofar as it would have been competent to do so in a comparable domestic matter, or insofar as the subject falls within the domestic competence of the Länder.” It was also laid down in article 23 (6) that in matters which primarily

affect the Länder, the right of the Federation to “exercise . . . the rights belonging to the Federal Republic of Germany as a member state of the European Union shall be delegated to a representative of the Länder designed by the Bundesrat.”

In any case it seems—through the European dimension of German politics—that the Länder’s position vis-à-vis the federation has improved since the early 1950s. Despite the strengthening of the position of the Länder the federal states are still dissatisfied with the slow process of information and communication in European affairs. Therefore, today the Länder are searching for an appropriate role in a further deepening of the European Union, especially as far as the principle of subsidiarity is concerned.²⁸ How can it best be applied at a European level? In proposals and discussions leading to the 1996 Intergovernmental Conference,²⁹ the Committee of the Regions argued that article 3b of the European Union Treaty (Treaty of Maastricht) could be implemented only if the Committee of the Regions would receive a status equal to the European Commission, the Council of Ministers, the European Parliament, the European Court of Justice and the European Court of Auditors. This claim is still on the agenda for European reform. The German Länder initiated and support this demand.

From my point of view the improved constitutional status of the German Länder concerning their active participation in the European process of integration and reform since 1994 had a positive impact on the German debate on the finality of Europe. People like the former Prime Minister of the state of Baden-Württemberg, Lothar Späth, or his successor Erwin Teufel, who was the representative of the German Länder in the European Convention, and other politicians from federal states made useful and important contributions to the European debate.³⁰

In November 1993 the Federal Council set up a Committee concerning Questions of the European Union.³¹ On 26 June 2002 the Committee concerning the Questions of the European Union (*Ausschuss für Fragen der Europäischen Union*) and the Committee of the Affairs of the European Union (*Ausschuss für Angelegenheiten der Europäischen Union*) of the Bundestag held a public hearing on the European Convention and the provisions of a European Constitution, which also included the topic of the role of national parliaments and the regions in the jurisdiction of the EU.³² The Federal Council adopted several resolutions on EU-enlargement,³³ on the Convention and the future of the EU,³⁴ on the “structural funds of the EU”³⁵ and on the “Lisbon strategy,”³⁶ but also on the “division of competencies of the context of discussions on the future of the European Union.”³⁷ In its resolution on the division of competencies in the EU the Federal Council pointed out that

Regional structures are needed in addition to those at the European level when adapting and modernizing the economy and developing transport and communication infrastructure [and demanded that in the constitution we] should seek to put the following goals into practice: . . . transparent decision-making processes and structures . . . subsidiarity, proportionality and proximity to citizens . . . respect for national and regional particularities.³⁸

It was also considered necessary to review the division of competencies between the EU, the member states and the regions and to reflect “in a more precise delimitation of competencies . . . the principle of subsidiarity.” The Federal Council also resolved that the representative of the Federal Council in the Convention on the future of Europe “is requested to negotiate on the basis of these considerations.”³⁹

In its resolution of 22 March 2002 on EU enlargement the Federal Council referred to several necessary prerequisites, which should be adopted in terms of administrative efficiency, and the guarantee of a uniform application of the Community acquis. The resolution also included an important point that would become important at a later stage:

The Bundesrat considers that to ensure full public support for this process in the Member States and the candidate countries, work on the communication strategy needs to be stepped up, emphasizing the process of European integration and reunification associated with enlargement, which makes the continent as a whole stronger. The aim should not be primarily to provide more information but rather to provide better information, based on appropriate strategies focusing on target groups and interest groups and enhancing communication between politicians/the administration, the media and citizens.⁴⁰

When the European Constitutional Treaty was adopted, including the applicant states besides the 15 old members, and the Bundestag discussed the enlargement of the EU on 30 April 2004, the Bavarian Prime Minister Edmund Stoiber criticized the fact that the Federal Government had neglected German interests and proposed that the people of all member states should simultaneously vote on the European Constitution in a referendum. This would “provide a great chance to bring Europe as an issue closer to the citizens.”⁴¹ There was no majority support—also for constitutional reasons⁴²—for this proposal. The Federal Council had already voted for the Treaty of Enlargement of the European Union unanimously. When the Treaty of Accession of Bulgaria and Romania was submitted to the Federal Council, the Council voted in favor of Bulgaria

and Romania joining the European Union on 1 January 2007.⁴³ The Federal Council also had to vote on the proposal of the European Commission for the Intergovernmental Conference on the change of the Treaty of the European Union founding the European Community.⁴⁴ In the process of ratification for the Treaty of Lisbon the Federal Council, after the German Bundestag, voted in favor of the EU Reform Treaty.⁴⁵ At the same time the Federal Council approved the bill on the “Extension and Strengthening of the Federal Diet and the Federal Council in Affairs of the European Union.”⁴⁶

3. Conclusions

WITHIN A changing historical and political framework the majority of the political elite of the Federal Republic, in spite of occasional relapses toward a national position, has always been in favor of “some sort” of federal solutions to the European project. Historical traditions, the German question, and the experience of a functioning federal system in the Federal Republic and a European ideology have contributed to these beliefs. Walter Hallstein, the constitutional lawyer, undersecretary of state and longtime president of the EEC may serve as an example for those who believe in a European Federation. The perception has changed, however, as Roman Herzog’s speech to the European Parliament in 1995 has shown.⁴⁷ There will be an alternative to the ideas of the 1950s, a maybe “totally different model.” Thus, for Lord Ralf Dahrendorf, Monnet and Hallstein stood for the “old Europe.” Dahrendorf criticized the Hallstein approach as “primitive,” because he believed that if you “start working on integration in one corner you will soon integrate the whole landscape.”⁴⁸ During his time as a member of the European Commission he realized that the “first Europe” and its institutions had reached its limits. The new Europe, the European Union he was envisaging, would need a constitution for democrats.⁴⁹

German policy aiming at the completion of European integration has become more active since the barriers for German European integration policy, like the national question and the special relationship toward the GDR, have been removed by the German unification. The broadening of the rights and competences of the German Länder in Germany’s Europe policy contributed to the debate on federalism at a domestic (the issue of federal reform) and European level. At a domestic German level the Länder had to cope with a process of transformation and innovation. This level is closely connected with the necessity to discuss a reform of the institutions of the EU in order to safeguard the rights

and interests of the Länder—the issue of subsidiarity—in a future European political organization. The German debate on adapting federalism to the needs of the present and preparing it for the future may have a fruitful impact on the debate on how to construct a functioning and effective future European Union which is close to the citizens. Today's Germany presents itself as a sensitive and creative player in the European debate on the finality of Europe and the German presidency of the EU in the first half of 2007 has proved this. The contributions by politicians of all parties since the mid-1990s, the speeches of the Federal Presidents on Europe and the ideas of task forces and experts on the institutional framework of the EU initiated a discussion all over Europe, supporting or refuting these ideas. German views on Europe at present range from a "European Confederation" to a "European Federation of Nation States." We should not be satisfied, however, with the progress European integration has made since the late 1940s and we should keep in mind, as Jean Monnet reminded his contemporaries in the early 1960s, that the European process is not static and will never be so. The European Community "is not a static creation; it is a new and dynamic phase in the development of our civilization."⁵⁰

Carlo Schmid, the social democratic intellectual, reminded us in his 1949 speech on Germany and the Council of Europe that we need a European vision, long-term concepts and creativity:

Nothing hampers the realization of things considered as being right more than getting used to a situation leaning into the right direction for fifty or twenty five percent: what we have achieved is temporarily sufficient; or notions like: we need to be realistic and should not ask for more than is available. [We should have the courage] to seek new horizons, roads the stages of which we are not yet able to predict. We hope that the statesmen of Europe will have this [courage].⁵¹

From a global point of view the Europeans need to find the right concepts for Europe's constitutional organization in an international environment. It will be a path on which there is no turning back, as Jean Monnet wrote in his memoirs:

As our provinces learnt yesterday, so must our nations learn today, to live together under common rules and under common freely devised institutions, if they wish to make progress and master their own fate. The sovereign nations of the past are no longer the units within which the problems of the present can be solved.⁵²

The member states of the EU had to find a way to overcome the crisis created by the negative referenda in France and in the Netherlands in 2005. The vote

against the European Constitutional Treaty after a period of reflection created new initiatives to overcome the constitutional deadlock among the member states. The various German contributions since the early 1990s may have helped to pave the way for a European constitutional framework accepted by the citizens of the EU. The Berlin Conference commemorating the 50th anniversary of the signing of the Treaties of Rome and the “Berlin Declaration,” as well as the conclusions of the Brussels summit in June binding all member states to agree on a new Basic Treaty by the end of 2007 and have it ratified before the next elections for the European Parliament in June 2009 had a positive impact on the question of the constitutional framework of the EU in the years to come. Since the German Länder have improved their role and position ever since the early 1950s, they are now prepared not only to safeguard their rights and interests but also to contribute to the discourse on the future development of the EU. From difficult and neglected fighters for their rights against the Federation in European affairs, they have become sensible and creative players at a German and European level.

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Notes

1. Thomas L. Friedman, *The World is Flat: A Brief History of the Twenty-First Century*, further, updated and expanded edition (New York: Picador/Farrar, Straus and Giroux, 2007), 51ff.
2. Cf. Wolf D. Gruner, *Deutschland mitten in Europa: Aspekte und Perspektiven der deutschen Frage in Geschichte und Gegenwart* (Hamburg: Dr. R. Krämer, 1992), 15.
3. I have discussed this topic widely in several studies. Cf. Wolf D. Gruner, *Die deutsche Frage in Europa 1800–1990* (Munich–Zurich: Piper, 1993). An enlarged English version in preparation: *Germany in Europe 1800–2007*; a Japanese version was published 2008 (Tokyo–Kyoto: Minerva). Id., “Die deutsche Frage als Thema der europäischen Politik im 19. und 20. Jahrhundert: Überlegungen zur Deutschlandproblematik in Geschichte und Gegenwart,” in *Deutschland 1949–1989: Von der Zweistaatlichkeit zur Einheit*, edited by Jürgen Elvert and Friederike Krüger (Stuttgart: Franz Steiner, 2003), 17–55; id., “L’Image de l’autre: Das Deutschlandbild als zentrales Element der deutschen Frage in Geschichte und Gegenwart,” in *Die hässlichen Deutschen? Deutschland im Spiegelbild der westlichen und östlichen Nachbarn*, edited by Günter Trautmann (Darmstadt: Wissenschaftliche Buchgesellschaft, 1991), 29–59.
4. Cf. e.g. a citation from Franz Josef Strauss in 1965: “Germany needs Europe more than any other country. In its post-war insecurity and solitude, it has seen in the European idea not only a way of compensating for the immediate past but an honourable outlet for its formidable energies,” quoted from Anthony Sampson, *Anatomy of*

Europe: A Guide to the Workings, Institutions, and Character of Contemporary Western Europe (New York–Evanston: Harper & Row, 1968), 21.

5. Cf. Wolf D. Gruner, “Historical Dimensions of German Statehood: From the Old Reich to the New Germany,” in *German Public Policy and Federalism: Current Debates on Political, Legal and Social Issues*, edited by Arthur B. Gunlicks (New York–Oxford: Berghahn Books, 2004), 15–46, 21f. Cf. also Arnold Brecht, *Federalism and Regionalism in Germany: The Division of Prussia* (New York–London–Toronto: Oxford University Press, 1945) and Wolf D. Gruner, “Der Föderalismus als Gestaltungsprinzip: Historische, philosophische und aktuelle Deutungen an deutschen Beispielen seit dem 18. Jahrhundert,” in *Subsidiarität und Föderalismus in der Europäischen Union*, edited by Heiner Timmermann (Berlin: Duncker & Humblot, 1998), 51–76.
6. Gruner, “Historical Dimensions of German Statehood,” 34ff.
7. European Parliament, “Draft Treaty establishing the European Union,” *Official Journal of the European Communities*, no. C 77/33 (14 February 1984); European Communities, “The Single European Act (Luxembourg 17 February 1986),” *Official Journal* L 169, 29 June 1987 (also in German, French, Italian and Dutch); Paolo Cecchini, Michel Catinat, and Alexis Jacquemin, eds., *The European Challenge 1992: The Benefits of a Single Market* (Aldershot–Brookfield: Gower, 1988); German version: *Europa ’92: Der Vorteil des Binnenmarkts* (Baden-Baden: Nomos, 1988); Jacques Delors, “Europa im Umbruch: Vom Binnenmarkt zur Europäischen Union,” *Europäische Gespräche* 9 (1992): 5–15.
8. Konrad Adenauer, *Erinnerungen 1945–1963*, 4 vols. (Stuttgart: DVA, 1965–1968); Hans Peter Schwarz, *Adenauer*, 2 vols., 1: *Der Aufstieg 1876–1952*, 2: *Der Staatsmann 1952–1967* (Stuttgart: DVA, 1986–1991). See also Gisela Müller-Brandeck-Bocquet et al., *Deutsche Europapolitik von Konrad Adenauer bis Gerhard Schröder* (Opladen: Leske + Budrich, 2002).
9. Walter Hallstein, *Europäische Reden*, edited by Thomas Oppermann and Joachim Kohler (Stuttgart: DVA, 1979); id., *Europe in the Making*, translated by Charles Roetter, with an introduction by George W. Ball (New York: W. W. Norton, 1972); Wilfried Loth, William Wallace, and Wolfgang Wessels, eds., *Walter Hallstein: The Forgotten European?*, forewords by Jacques Delors, Sir Edward Heath, and Helmut Kohl, translated by Bryan Ruppert (Basingstoke: Macmillan, 1998), published originally in German: *Walter Hallstein: Der vergessene Europäer?* (Bonn: Europa-Union Verlag, 1995).
10. Carlo Schmid, *Erinnerungen* (Bern–Munich–Vienna: Scherz, 1979); Petra Weber, *Carlo Schmid 1896–1979: Eine Biographie* (Munich: C. H. Beck, 1996).
11. Cf. Franz Josef Strauss, *Entwurf für Europa* (Stuttgart: Seewald, 1966); Sampson, chapter “Jean Monnet–de Gaulle–Strauss,” 21–27.
12. Cf. Wolf D. Gruner, “Les Länder allemands et la création de la CEE,” in *Le Couple France-Allemagne et les institutions européennes: Une posterité pour le Plan Schuman?*, edited by Marie-Thérèse Bitsch (Brussels: Émile Bruylant, 2001), 35–61; id., “The German Debate on Europe: Expectations—Positions—Perceptions—Ideas (1945–2002),” in *Cultures politiques, opinions publiques et intégration européenne*, edited by Marie-Thérèse Bitsch, Wilfried Loth, and Charles Barthel (Brussels: Émile Bruylant, 2007), 61–86 and id., “Das Verhältnis Bund–Länder–Europa in der Geschichte der

- Bundesrepublik,” in *Europa-Lexikon: Länder—Politik—Institutionen*, edited by Wolf D. Gruner and Wichard Woyke (Munich: C. H. Beck, 2007), 73–79.
13. Cf. Axel Schildt, “Europa als visionäre Idee und gesellschaftliche Realität: Der westdeutsche Europadiskurs in den 50er Jahren,” in *Das europäische Projekt zu Beginn des 21. Jahrhunderts*, edited by Wilfried Loth (Opladen: Leske + Budrich, 2001), 98–105.
 14. Presse- und Informationsamt der Bundesregierung, *Bulletin* 56 (1957): 473–480, 475 (Declaration of the Federal Government to the Bundestag, 22 March 1957); Deutscher Bundestag, *Stenographische Berichte* (Official Journal), 2. Wahlperiode, 21.3.1957, Sp. 11327 D-11334 C (hereafter cited as DBT StenBer. WP). Cf. also Wolf D. Gruner, “Die Bundesrepublik Deutschland und die Römischen Verträge in historischer Perspektive,” in *Vom gemeinsamen Markt zur Europäischen Union: 50 Jahre Römische Verträge 1957–2007/From Common Market to European Union Building: 50 Years of the Rome Treaties 1957–2007*, edited by Michael Gehler (Cologne–Weimar–Vienna: Böhlau, 2008), 485–520, 496f.
 15. Cf. for the issue: Udo Diedrichs, “The German System of EU Policymaking and the Role of the Länder: Fragmentation and Partnership”; Elisabeth Dette-Koch, “German Länder Participation in European Policy through the Bundesrat,” in *German Public Policy and Federalism*, 165–181 and 182–196. Some key documents are printed in Sekretariat des Bundesrates, *Bundesrat und Europäische Gemeinschaften: Dokumente* (Bonn: Bonn Aktuell, 1988). For more detailed informations on the debates in the German Federal Diet and the Federal Council in 1957 cf. DBT StenBer. 2nd WP 11327–11366, 13314–13334 and Deutscher Bundesrat (DBR) StenBer. 607ff. and 742. For references cf. also Gruner, “Die Bundesrepublik Deutschland und die Verträge von Rom,” 496ff.
 16. The FRG was entitled to send 10 delegates into the Consultative Assembly of the Council of Europe.
 17. Cf. in more detail: Wolf D. Gruner, “Der Europarat wird fünfzig—‘Vater’ der europäischen Integration: Gründungsvorstellungen, Leistungen und Perspektiven nach 50 Jahren,” in *Jubiläumsjahre—Historische Erinnerung—Historische Forschungen* (Rostock: Universitätsdruckerei, 1998), 117–234.
 18. Cf. Gruner, “Les Länder allemands et la création de la CEECA,” 38ff.
 19. The respective documents can be found in: Bundesrat (DBR), *Bundesratsdrucksache* (hereafter cited as BR-Drs.) 146/1957 B (Statement of the Federal Council), DBT, *Bundestagsdrucksache* (in the following BT-Drs.) 2/3440 (Answer of the Federal Government) and proceedings of the Federal Council, *Official Journal* 181st sitting 19 July 1957, 742C–726B. For more detailed references and information on the debates in the German Federal Diet and the Federal Council in 1957 cf. DBT StenBer. 2nd WP 11327–11366, 13314–13334 and DBR StenBer. 607ff. and 742. For references cf. also Gruner, “Die Bundesrepublik Deutschland und die Verträge von Rom,” 496ff.
 20. Cf. Bundesgesetzblatt 1957 II, 753.
 21. Cf. e.g. DBR, BR-Drs. 95/1978; BR-Drs. 418/1979; BR-Drs. 432/1983; BR-Drs. 414 and 469/1985; BR-Drs. 45 and 186/1986. A useful report on the growing role of the Bundesrat is: Gerhard Konow, “Der Bundesrat und das Gleichgewicht zwi-

- schen Bund und Ländern: Anmerkungen zur und aus der Arbeit des Bundesrates von 1958 bis 1988,” in *Miterlebt—Mitgestaltet: Der Bundesrat im Rückblick*, edited by Rudolf Hrbek (Bonn: Bonn Aktuell, 1989), 244–265.
22. DBT BT-Drs. vol. 339/1986 10/6013 (17.9.); BT-Drs. 10/6029 (19.9.); vol. 341/1986, BT-Drs. 10/6226 (Report and recommendation of the Europe Committee, 22 October 1986); vol. 342/1986, BT-Drs. 10/6380 (Report of the Federal Government, 7 November 1986); BT-Drs. 10/6392 Draft of Bill Single European Act (10 November 1986) and BT-Drs. 10/6418 Information through the Federal Government. Reply to the statement of the Federal Council of 16 May 1986 (12.11.1986); BT-Drs. 10/6414 (motion of the SPD parliamentary group of 12 November 1986); vol. 343 BT-Drs. 10/6663 Report and recommendation of the Foreign affairs Committee and BR-Drs. 150/86 (16 May 1986, adopted). Cf. also Anke John, “Konzeptionen für eine EG-Reform: Der europäische Verfassungsdiskurs in der Bundesrepublik 1981–1986,” in *Die Bundesrepublik Deutschland und die europäische Einigung 1949–2000: Politische Akteure, gesellschaftliche Kräfte und internationale Erfahrungen: Festschrift für Wolf D. Gruner zum 60. Geburtstag*, edited by Mareike König and Matthias Schulz (Stuttgart: Franz Steiner, 2004), 559–575 with important references to the research on the 1980s.
 23. The respective clause sub C reads: “3. Der Bundesrat verlangt, daß die Beteiligung der Länder an der innerstaatlichen Willensbildung für Entscheidungen im Rahmen der Europäischen Gemeinschaft nicht nur in dem Gesetz zur Einheitlichen Europäischen Akte, sondern darüber hinaus später in der Verfassung festgelegt wird. Außerdem darf die Übertragung von Hoheitsrechten nach Artikel 24 des Grundgesetzes auf zwischenstaatliche Einrichtungen in Zukunft nicht ohne Zustimmung des Bundesrates möglich sein, zumindest dann nicht, wenn es um Hoheitsrechte der Länder geht. 4. Der Bundesrat stellt die Zustimmung zu dem Gesetz zur Einheitlichen Europäischen Akte in Aussicht, wenn die von ihm verlangte Änderung des Gesetzentwurfs durch einfügung eines neuen Artikels 1a erfüllt wird.” The Federal Council was demanding safeguards for participation in European affairs beyond the Act on the Single European Act. This would be best achieved by a respective article the in Basic Constitutional Law, i.e. additions to article 24.
 24. DBT vol. 644, BT-Drs. 10/6663 (3 December 1986).
 25. For the original reading of article 23 cf. Jutta Limbach, Roman Herzog, and Dieter Grimm, eds., *Deutsche Verfassungen: Reproduktion der Verfassungsoriginale von 1849, 1871, 1919 sowie des Grundgesetzes von 1949* (Munich: C. H. Beck, 1999), facsimile version.
 26. Quoted according to: Basic Law for the Federal Republic of Germany, text edition—Status: December 2000 (pdf-version), accessed 25 February 2021, http://www.bundestag.de/htdocs_e/info/germanbasiclaw.pdf.
 27. Basic Law, part II, The Federation and the Länder, Article 23 (The European Union), 24.
 28. Cf. the interesting article by Ludger Kühnhardt, “Föderalismus und Subsidiarität: Betrachtungen zu einer deutschen und europäischen Frage,” in *Aus Politik und Zeitgeschichte* B 45 (1991): 37–45. From a broader angle: Wolf D. Gruner, “Der Föderation

lismus als Gestaltungsprinzip: Historische, philosophische und aktuelle Deutungen an deutschen Beispielen seit dem 18. Jahrhundert,” in *Subsidiarität und Föderalismus in der Europäischen Union*, 51–76 and other contributions in this volume.

29. Cf. the Reflection Group Report (Westendorp Report): General Secretariat of the Council of the European Union, *1996 Intergovernmental Conference (IGC'96): Reflection Group Report and other References for Documentary Purposes* (Brussels–Luxembourg: Office of Official Publication, 1996).
30. Cf. Lothar Späth, *1992 Der Traum von Europa*, 2nd edition (Stuttgart: DVA, 1989) and Herbert A. Henzler and Lothar Späth, *Jenseits von Brüssel: Warum wir uns für die europäische Idee neu begeistern müssen* (Düsseldorf: Econ, 2001); Lothar Späth, *Strategie Europa: Ein Zukunftsmodell für die globalisierte Welt* (Reinbek b. Hamburg: Rowohlt, 2005); Christoph-E. Palmer, ed., *Europa in guter Verfassung: Erwin Teufel—für die deutschen Länder im Konvent* (Stuttgart: Staatsministerium Baden-Württemberg, 2004); Erwin Teufel, *Europa bauen, den Wandel gestalten: Europa im Umbruch*, foreword by Heiner Gutberlet (Stuttgart: Robert Bosch Stiftung, 2004).
31. Cf. http://www.bundesrat.de/Site/Inhalt/DE/5_20Europa-Internationales, accessed 25 February 2021.
32. Cf. http://www.bundestag.de/ausschuesse/archiv15/a20/eu_debatten_15_wp/index.html, accessed 25 February 2021.
33. Cf. http://www.bundesrat.de/Site/Inhalt/DE/5_20Europa-Internationales/5.3_20Ausschuss...pdf. file Decision 209/02 (22 March 2002 “Bundesrat Resolution on Enlargement of the European Union”), accessed 7 February 2006.
34. Cf. *ibid.*, pdf. file Decision 586/02 (12 July 2002 “Resolution Regarding the Convention on the Future of the EU”).
35. Cf. *ibid.*, pdf. file Decision 571/04 (15 October 2004 “Opinion on EU Structural Funds”).
36. Cf. *ibid.*, pdf. file Decision 917/04 (18 February 2004 “Opinion on the Mid-Term Review of the Lisbon Strategy”).
37. Cf. *ibid.*, pdf. file Decision 1081/01 (20 December 2001 “Resolution on the Division of Competencies in the Context of Discussions on the Future of the European Union”).
38. *Ibid.*
39. *Ibid.*, resolution part B.
40. DBR BR-Decision 209/02, 6. Cf. also DBR StenBer. 774th Session 22 March 2002, 201–203.
41. http://www.bayern.de/Presse-Info/Reden/2004/rede_040430_Osterweiterung.html, Speech by Prime Minister Stoiber in the Bundestag concerning the Eastern enlargement of the European Union, accessed 25 February 2021.
42. According to the Basic Constitutional Law there are no referenda allowed at the national level. This is however the case as far as referenda on domestic issues in the Länder are concerned.
43. DBR StenBer. 828th Session on 24 November 2006, 358 B–361 D, http://www.bundesrat.de/cln_090/nn_44034/SharedDocs/Downloads/DE/Plenarprotokolle/

2006/Plenarprotokoll-828,templated=raw,property=publicationFile.pdf/Plenarprotokoll-828.pdf, accessed 26 October 2008. The protocols may also be downloaded from the site of the German Federal Council, http://www.bundesrat.de/cln_090/nn_43994/DE/parlamentsmaterial/plenarprotokolle/plpr2000-node.html?_nnn=true from 2000 (submitting the respective year) onwards.

44. DBR Drucksache 569/07, 10 October 2007 Beschluss (Conclusion).
45. DBR StenBer. 844th Session 23 May 2008, 132–136 and declaration of the prime minister of Saarland, 161–163. Cf. also Bill on the Treaty of Lisbon (Drucksache 275/08), Bill revising articles 23,45 and 92 of the Basic Law (Drucksache 276/08).
46. Cf. DBR Drucksache 277/08.
47. Cf., Roman Herzog, “Speech to the European Parliament at Strasbourg, October 10, 1995,” in *Lessons from the Past: Visions for the Future*, with an introduction by Steven Muller (Washington, D.C.: American Institute for Contemporary German Studies, The Johns Hopkins University, 1997), 39–47.
48. The interview of the author with Lord Dahrendorf on 2 September 1998 can be found in: <http://wwwarc.iue.it/oh/bin/CreaInt.asp?rc=642>, 19. For Dahrendorf’s views on Europe cf. besides the interview inter alia: Ralf Dahrendorf, *Plädoyer für die Europäische Union* (Munich: Piper, 1973).
49. Dahrendorf, *Europäische Union*, 209ff. Cf. also Ralf Dahrendorf, “Europa und der Westen,” *ZEuS: Zeitschrift für Europarechtliche Studien* 7, 2 (2004): 165–172.
50. Introduction to Richard Mayne, *The Community of Europe: Past, Present and Future* (New York: W. W. Norton, 1963), 5.
51. Schmid, “Europa-Rat,” 18f.
52. Jean Monnet, *Erinnerungen eines Europäers*, foreword by Helmut Schmidt, translated by Werner Vetter (Munich: Dtv, 1980), 662.

Abstract

The German Federal States, the Federation and European Integration: The Historical Dimension of German History in Europe, Problems and Perspectives (1949–2008)

German policy aiming at the completion of European integration has become more active since the barriers for German European integration policy, like the national question and the special relationship toward the GDR, have been removed by the German unification. The broadening of the rights and competences of the German Länder in Germany’s Europe policy contributed to the debate on federalism at a domestic (the issue of federal reform) and European level. Since the German Länder have improved their role and position ever since the early 1950s, they are now prepared not only to safeguard their rights and interests but also to contribute to the discourse on the future development of the EU.

Keywords

European integration, German Länder (federal states), European project, federalism, subsidiarity