The Preparation of Austria for Its Accession to the European Union with Respect to Constitutional and Administrative Reforms

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When the founding nations of the then European Communities came together to sign the Treaties of Rome in 1957, it had not even been two years that Austria had regained its full sovereignty through the State Treaty. This had been concluded with the allied forces after ten years of occupation with which they had put an end to the Anschluss by Nazi-dictated Germany.

In the aftermath of the Second World War, Austria and its neighbours to the south and east had been deprived for more than forty years from establishing a close economic and political cooperation, because Hungary, the Czech and Slovak Republics and Slovenia (which was in former times part of the Republic of Yugoslavia) belonged to the other Europe'.

As it had to face the constraints of a closed border to its East, Austria headed for trade with the free market economies by joining the EFTA and managed to find its position in the international community as a small and neutral European country, being a member of the Council of Europe and the European Convention on Human Rights as well as one of the three sites of the United Nations. Although Austria played an active role in the CSCE process and made attempts to establish regional cooperation with its neighbours to the east and south, it was forced by its delicate geopolitical position to confine itself to a mere association agreement which had been signed with the then EEC in 1972.

After the first signs of the democratic upheavals in the former Eastern bloc, Austria clearly signalled its intention to join the European Communities by sending a letter of application in summer 1989. At that time a sizeable public discussion started and, even before arguments on the merits of accession came up, the question of Austria's Europareife emerged. Discussion has continued, but the very positive avis of the Commission on the benefits of Austria's accession gave much comfort to public opinion.

Efforts were made to see that civil servants were effectively prepared for the requirements of having to represent a new Member State in the EU decision-making process. In addition, attempts were made to ensure Austria's shape as a federal country and to settle the role of the federal states (Bundesländer) in the process of European integration.

The Reform of the Federal State

Being a federal republic, Austria enabled its nine states, the Bundesländer, to participate in the internal decision-making process on EU proposals (so-called Länderbeteiligungsverfahren). Additionally, efforts to reform the federal system have commenced.

Since its foundation after the First World War, the Republic of Austria has been a federal state consisting of nine independent states (Bundesländer). Yet, Austrian federalism is in many aspects different from the well-known concept of German federalism. Whereas the German Länder are generally recognized as the founding entities of the Bundesrepublik and the concept of federalism is based on a broad national consensus, Austrian federalism has been a matter of ideological conflict from the start. The 1920 Constitution stipulating a federal structure but allocating the major legislative competences to the central government in Vienna was the result of a compromise between the two leading forces which have dominated the country ever since: the centralist-oriented Socialist Party and the Christian Democrats (currently the People's Party) which has always favoured a strong federalist system.

In addition to a decreasing number of legislative competences and fiscal authority, the
Bundesländer were in charge of implementing federal legislation under the direction of the federal ministers (so-called implementing federalism'). Communities were also granted a small range of competences and financial autonomy.

Soon after Austria had regained its full sovereignty after the Second World War, the Bundesländer started to strive for a change in the Constitution in order to increase their power. From the 1970s onwards regular negotiations between the federal entity, the Bund, and the Bundesländer have led to several constitutional changes which brought several improvements for the Bundesländer, among them the competence to conclude treaties under international law with Austria's neighbouring states and their regions, provinces and Länder, which enhanced the position of the Bundesländer as legal persons. The Austrian Bundesländer were conscious of the fact that accession to the EU might mean another level being added to the existing struggle for competences with the central authorities in Vienna. Yet, the Bundesländer showed considerable support for Austria's intention to join the European Union as they all have experienced the situation of frontier regions and the need to cooperate with neighbouring states. The participation of the Bundesländer in the EU decision-making process with respect to their competences has already been provided for by a change in the Constitution in 1992. The so-called Länderbeteiligungsverfahren aims at ensuring the influence of the Länder and the communities on opinion-building at federal level whenever the legislative competences or the prerogatives of the communities are involved in a proposal at Union level. Bundesländer and communities have the right to be informed of all proposals which touch upon their areas of competence and they have the right to give an opinion. The Bundesländer can bind the Bund with a joint opinion on matters concerning their legislative competences. The Bund may only leave these instructions because of cogent constraints of foreign and integration policy and has to give a reason for this. A joint opinion requires the assent of at least five Bundesländer and no objection from the four others. This has been agreed in a treaty between the Bund and the Bundesländer. The ability of the Bundesländer to find a joint opinion will also become of crucial importance with respect to the new Article 146 EC Treaty which also allows the representatives of regional entities to take a country's seat in the Council.

The Bundesländer can oblige the federal government to initiate a procedure at the European Court of Justice. In case of a delay of implementation of EU legislation in one of the Bundesländer the legislative competence will only shift to the Bund if the Bundesländer are found guilty of the delay by an international court. The representation of the Bundesländer in Brussels is also well provided for: delegates from the Bundesländer must be included in national delegations for negotiations on matters of relevance for the Bundesländer. The joint conference of the heads of the Bundesländer has already attached two permanent delegates to the Austrian mission to the EU in Brussels.

The twelve seats in the Committee of the Regions will be taken by a representative from each Bundesland and by deputies from community associations. Delegates from the Austrian Bundesländer and communities have already participated in non-EU regional cooperation, e.g. within the Assembly of the Regions of Europe.

Additionally, several Austrian Bundesländer have established representations in Brussels. The main features of the envisaged reform are a renewed and better structured catalogue of competences and the idea of implementing federalism is sought to be strengthened by abolishing the right of the federal government to give orders to the heads of the Bundesländer in matters of federal legislative competences which are administered by the Bundesländer. Therefore the Austrian Bundesländer will also have to perform an important role in the implementation of EU law.
Training Civil Servants for EU Membership

Senior Austrian officials have the chance either to follow a comprehensive sixteen-week course on EU matters (Europaakademie) or, if absence from work for such a long period does not permit, to participate in a series of twelve short seminars (EU-Curriculum).

EU matters were integrated into the curriculum of the Verwaltungsakademie des Bundes, the federal training institution for civil servants in 1991.4

There are the seminars of the EU Curriculum on the EU institutions and policies, on economical and legal questions as well as on communication, negotiation and foreign language skills. Participants have to follow six obligatory courses and another six seminars which they can choose from a range of around thirty topics. The choice varies from year to year and aims to provide the civil servants with more specific information on the EU policies related to their field of activity and with more in-depth knowledge of EU law and other matters related to EU, such as lobbyism, the use of databases and again communication and foreign languages. The courses have a duration of two days to one week. It takes the civil servants about two years to run through this programme which is certified by a diploma from the Verwaltungsakademie.

A major innovation with respect to the preparation of the administration for EU accession has been the foundation of the Europaakademie. Established within the framework of the traditional Verwaltungsakademie but with its own academic staff and building, the Europaakademie offers a sixteen-week postgraduate academic course on institutional, political, legal and economical aspects of the EU. A precondition for participation is graduation from a university as well as a very good command of either English or French and an active knowledge of the other language. The programme is also open to members of the administration of the Bundesländer, the communities and other public corporations as well as to persons working in the private sector whose employers have to reimburse the costs to the federal administration.

The participants are on academic leave from their working places as they have to follow courses and undergo language training for eighty consecutive days. The participants in the Europaakademie as well as the EU Curriculum spend one week on a study tour to the main institutions of the EU in Strasbourg, Luxembourg and Brussels. This programme is organized and guided by the European Institute of Public Administration which also provides several lecturers for the theoretical parts in Vienna. The main purpose of the study tour is to give a practical impression of the decision-making process and the cooperation of the institutions through presentations by members of the EU administration. The curriculum of the Europaakademie also includes a study visit to the Bologna Centre at Johns Hopkins University, in Bologna, where lectures on the external relations of the EU are given. A prerequisite for obtaining a diploma is that participants have to write a paper of 20 to 30 pages on an EU-related topic of their choice. In the last week of the course the paper has to be presented and defended before the other participants, the course leadership and a member of the faculty who supervised the paper. The first course of the Europaakademie was held in spring 1992, since then the programme has taken place twice a year. The 6th promotion started in September 1994. So far, 86 participants have graduated from the Europaakademie, 17 from the EU Curriculum. In addition to the regular programme, evening lectures are given on current topics.

Conclusions

Austria's efforts to prepare for EU membership were initiated immediately after application at a time when public consensus on joining and the successful outcome of accession negotiations had still to be reached. In this period of uncertainty the conclusion of the EEA agreement and the experiences with the application of EU rules after its entry into force in January 1994
provided a better insight into EU practice as well as the feeling of having a safety-net in case accession were to fail. The firm and decisive vote of the Austrian people for EU membership in the referendum in June 1994 not only proved that the efforts made had been effective and justified the investment in administrative and constitutional reforms. It is also the realization of a long desire to participate to the full in the Community that has given a democratic, peaceful and prosperous profile to Europe.

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References


Notes

1 Austria remained involved in efforts to build bridges towards what was the then communist bloc in eastern Europe. Apart from its dedication to the CSCE process, Austria has participated in fostering the idea of regional cooperation among the neighbouring countries of central Europe. The Central European Initiative was originally founded as The Quadragonale together with Italy, the former Yugoslavia and Hungary in 1989. Meanwhile, Poland, the Czech and Slovak Republics, Croatia and Slovenia as well as Bosnia-Herzegovina joined while an application for the membership of Macedonia is still pending.

The realization of common projects in Central Europe is prepared in working groups and in cooperation with the EBRD. Minority rights and the tragedy in the former Yugoslavia are treated by special groups of experts. Austria has always made it clear that it understood these activities as a necessary supplement, and not as an alternative, to its efforts to be integrated into the European Union.

2 Article 15a of the Austrian Constitution (B-VG) provides for the conclusion of treaties between the Bund and the Bundesländer as independent legal entities.

3 In certain matters the Bund only enacts framework acts and it remains within the competence of the Bundesländer to pass implementing legislation. In case of delay the competence for the implementing legislation shifts to the Bund (devolution). This sanction for delay will also be applied with respect to the implementation of EU law in matters falling within the competence of the Bundesländer.

4 Junior civil servants are obliged to follow courses at the Verwaltungsakademie and to pass
exams within their first year after joining the administration. Apart from this training, which is a precondition for a definitive assignment as a civil servant, the Verwaltungsakademie offers several opportunities for facultative vocational training to the members of the federal administration.