

# The Barroso Drama

## Pöttering and Schulz Take Over Action and Inaction of National Politics in the Making of the Barroso Commission

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Appointment of European Commission and German Constitution. Influence EPP's electoral victory and German internal politics on Barroso's appointment. Socialist Verheugen accepted by rightwing German politicians. Role of national politicians and German MEPs in Buttiglione crisis.

### PROLOGUE

The wider public in Germany got to know Martin Schulz, the parliamentary leader of the European Socialists, in the summer of 2003 after Silvio Berlusconi had infamously compared him with a Nazi guard. One week later the German chancellor, Gerhard Schröder, cancelled a three-week summer holiday on Italy's Adriatic coast in response to an offence to German tourists by Berlusconi's minister for tourism. Instead, Schröder spent his holidays at home in the suburbs of Hanover, which certainly did not amuse a politician whom the national media often portrays as a member of Germany's 'Tuscany faction' of politicians known for their preference for Mediterranean food and lifestyle.<sup>1</sup> All this might have been long forgotten one year later during the political showdown caused by another minister of the Berlusconi cabinet. But one cannot exclude that the potential memory of the dispute discouraged Schröder and Schulz from supporting Rocco Buttiglione more pro-actively. It would be comprehensible from a human point of view.

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<sup>1</sup> For a summary see 'Schröder eschews Italy for familiar delights of home', *Financial Times*, 10 July 2003.

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## APPOINTMENT OF THE COMMISSION PRESIDENT

The popularity of Martin Schulz, who headed the national list of the German Social Democrats (SPD) for the 2004 European elections, did not have a great influence on the election result. Reflecting national discomfort with the Schröder government, the European elections resulted in a devastating defeat for the SPD with 21.5% of the national vote. The Christian Democrats of the CDU and its Bavarian sister party CSU performed rather well and obtained 49 out of the 99 German seats, thereby contributing substantially to the overall victory of the European People's Party (EPP). The election victory certainly boosted the self-confidence of the German opposition and its European spearhead, Hans-Gert Pöttering, who declared victoriously on the night of the elections that the next Commission President should belong to the EPP, and that Guy Verhofstadt was 'under no circumstances an acceptable candidate for the EPP'.<sup>2</sup> This did not come strictly as a surprise, since he had voiced the same opinion several times before the elections, when the German media discussed the chances of Schröder's declared favourite for the Commission Presidency.<sup>3</sup>

Interestingly, Pöttering was rather generous when it came to the nomination of Günter Verheugen (SPD) for a second term in the Commission, although he could have been the obvious first political target after the election defeat of the SPD.<sup>4</sup> Probably, the Christian Democrats knew that any political move to prevent a second Verheugen term would not succeed, as they had already failed five years earlier to translate their landslide victory in the European elections into the post of a German Commissioner.<sup>5</sup> Legally, the nomination of international

<sup>2</sup> Interview: Unionspolitiker als Kommissar', *Financial Times Deutschland*, 14 June 2004, p. 3. Pöttering explicitly named Wolfgang Schäuble, Jean-Claude Juncker and Chris Patten (not: Barroso) as potential candidates.

<sup>3</sup> See as early as May 2004 in 'EU-Konservative lehnen Verhofstadt ab', *Financial Times Deutschland*, 17 May 2004, p. 14, 'Wir brauchen jemanden der Europa zusammenführt', *Frankfurter Allgemeine Zeitung*, 24 May 2004, p. 4 or just before the election 'Verhofstadt ist der Favorit', *Der Tagesspiegel*, 10 June 2004.

<sup>4</sup> In the same interview, the first question indeed referred to Verheugen whose work as commissioner for enlargement Pöttering praised before commenting rather generally that it would be 'democratically fair' if a Christian Democrat represented Germany in the next Commission – without openly rejecting him as he did Verhofstadt. Similarly, Angela Merkel recognised Verheugen's 'enormous reputation' while criticising his nomination for its 'lack of political style'; see 'Schröder benennt Verheugen für EU-Kommission', *Frankfurter Allgemeine Zeitung*, 29 June 2004, p. 4.

<sup>5</sup> In 1999, the Schröder government nominated two members of the governing 'red-green' coalition despite the resounding 48.7% for the CDU/CSU at the EP-elections as part of a compromise with the Greens after the 1998 general election when the Greens' call for an additional ministerial post in Berlin was met with the promise of a Commissioner. In 1995, chancellor Helmut Kohl had nominated one government and one opposition representative. But his was only a one-time compromise. In the decades before, the respective governments had usually nominated two members belonging to the governing coalition.

personnel, including within the EU framework, is indeed the prerogative of the government under Articles 32(1) and 23 of the German Constitution.<sup>6</sup> There is no provision similar to Article 23c of the Austrian Constitution, which regulates important EU appointments and on whose basis the EU Committee of the Austrian *Nationalrat* heard the Austrian Commissioner-designate.<sup>7</sup> Also the Commission on the Reform of German Federalism did not debate German EU appointments during its discussions in 2004, although generally the reform of constitutional arrangements in EU affairs featured prominently on its agenda.<sup>8</sup>

From a legal point of view, the focus on the Commission Presidency therefore made sense, since the parliamentary consent requirement in Article 214(2) EC and the linkage of the Commission Presidency to the outcome of the European elections in Article I-27(1) of the future Constitutional Treaty provided the legal leverage the German Constitution did not supply. But the ultimate decision against Verhofstadt, who was openly supported by Schröder and Chirac (and was reportedly opposed by the British), was taken at the meeting of the EPP in Bouchout castle outside Brussels on the eve of the European Council of 17/18 June 2004, which agreed upon Chris Patten as a common candidate. The *Frankfurter Allgemeine Zeitung*, arguably Germany's most respected newspaper, reports that the EPP decision was decisively influenced by EPP-President Martens of Belgium, whose political party belongs to the opposition to Verhofstadt's government, in close cooperation with Pöttering and Angela Merkel, the leader of the German CDU/CSU.<sup>9</sup> Did these opposition politicians activate the rather unusual format of an EPP-meeting to press their point, since they did not take part in the European Council meeting as such?

Not surprisingly, the German media portrayed the rejection of Verhofstadt as a political defeat for Schröder who had repeatedly spoken out in his favour. And when Schröder was interrupted by a Christian Democratic heckler during the plenary debate on the government's European policy in the German *Bundestag*

<sup>6</sup> Although one may argue that the *Bundestag* and the *Bundesrat* have the right to be consulted in accordance with Art. 23(2)-(6) Grundgesetz, which mainly concerns legislative proposals, it has to my knowledge never been used for the appointment of personnel.

<sup>7</sup> See the protocol on the deliberations of the *Hauptausschuss in Angelegenheiten der EU* of 11 Aug. 2004 concerning the nomination of Benita Ferrero-Waldner <www.parlinkom.gv.at>. For an English version of the Austrian Constitution see <www.ris.bka.gv.at/erv/erv\_1930\_1.pdf>.

<sup>8</sup> The reform discussion focused on the federalist aspects of the participation of the German *Länder* in EU legislation through the second chamber (*Bundesrat*). Also calls from the CDU/CSU opposition to reinforce the rights of the German *Bundestag* in the context of the ratification of the Constitutional Treaty, which the government does not yet support, do only foresee hearings for future German judges, but exclude any parliamentary scrutiny of German Commissioners.

<sup>9</sup> Karl Feldmayer, 'Erweiterter Radius', *Frankfurter Allgemeine Zeitung*, 1 July 2004, p. 3. In the initial report 'Wenn viele wollen und einer nein sagt', *Frankfurter Allgemeine Zeitung*, 18 June 2004, p. 6 Pöttering is depicted as 'explaining for the 100<sup>th</sup> time why Verhofstadt wasn't the right candidate'.

two weeks later on the issue of the Commission Presidency, he spontaneously complained about the ‘instrumentalisation of such processes for reason of party politics’.<sup>10</sup> In her response to the chancellor, Merkel took up the criticism and replied: ‘Of course, Europe consists of states and I explicitly agree with your position that France and Germany should be the engine of its integration. But given the deepening of integration Europe does increasingly also reflect the different political preferences of political parties’.<sup>11</sup> In any case, Schröder deliberately sought a national consensus ten days after the disagreement on Verhofstadt before the nomination of Barroso, which was indeed welcomed by all major political parties in Germany.<sup>12</sup>

#### PORTFOLIO ASSIGNMENT

As mentioned earlier, the nomination of Verheugen for a second term on the Commission did not come as a surprise and was not heavily criticised by the opposition, which recognised his achievements. Moreover, the CDU/CSU explicitly supported the SPD-proposal for the creation of new structures within the Commission to enhance economic reform<sup>13</sup> – a concept which had originally been put forward by a letter from Blair, Chirac and Schröder to the European Council and agreed upon at their tri-partisan summit in Berlin on 18 February 2004, which called for the creation of the post of Vice-President of the Commission responsible for economic reform and the co-ordination of the Lisbon process.<sup>14</sup> Officially, the German government had always stuck to this formulation,<sup>15</sup> and the author of this contribution personally agrees with the analysis of a German government spokesperson that the media hype about the alleged ‘super-commissioner’, which was explicitly refused by Barroso at his confirmation hearing in the EP, was partly an invention of the media.<sup>16</sup>

<sup>10</sup> See Plenarprotokoll 15/119 der 119. Sitzung des 15. Deutschen Bundestags, 2 July 2004 <[www.bundestag.de](http://www.bundestag.de)>.

<sup>11</sup> Ibid.

<sup>12</sup> See Schröder’s explicit statement to the media that he had consulted Merkel before agreeing to Barroso’s nomination, ‘Barroso soll Präsident der EU-Kommission werden’, *Frankfurter Allgemeine Zeitung*, 28 June 2004, p. 1.

<sup>13</sup> Ibid. While criticising that a business expert and not the foreign policy specialist Verheugen would be more prepared for the job. Only the German liberal FDP officially voiced its disagreement arguing that Schröder wanted to force his vision of industrial policy on the whole of Europe.

<sup>14</sup> ‘Europe’s ‘Big Three’ Urge Economic Reform’, *Financial Times*, 19 Feb. 2004, p. 1.

<sup>15</sup> See, for example, the rather cautious formulation in Schröder’s policy declaration *supra* n. 10.

<sup>16</sup> ‘Barroso findet keinen Gefallen an Superkommissar’, *Financial Times Deutschland*, 22 July 2004, p. 13.

Nonetheless, Schröder might have hoped for more than the portfolio eventually assigned to Verheugen by Barroso in August – especially since the powerful internal market, competition and trade posts were handed to liberal politicians. But officially Berlin welcomed Verheugen's appointment as Vice-President of the Commission in charge of Industry and Enterprise who will also chair a group of commissioners responsible for improving Europe's competitiveness. Schröder officially declared himself 'pleased' with the decision, which realised 'many of the demands' originally made by France, the United Kingdom and Germany.<sup>17</sup> Political commentators on the contrary pointed at the limited legislative responsibilities of Verheugen's portfolio, which sounded grand at first sight, but entailed the danger of being sidelined by other commissioners in specific policy issues.<sup>18</sup> But the portfolio assignment did not cause a similar political backlash as the one that shook the French political scene, since Verheugen's responsibilities met the German demands at least from a formal point of view due to Barroso's 'tactical skills'.<sup>19</sup>

### THE BUTTIGLIONE CRISIS

At the end of August, most German politicians probably assumed that the exercise of appointing the new Commission had been accomplished and that the political debate would move on to other issues. Indeed, the confirmation hearings in the EP were not covered extensively by the German media and focused on links to the domestic political debate. In its initial report on the Buttiglione hearing, the *Frankfurter Allgemeine Zeitung* did not mention his remarks on gays and women at all and instead concentrated on his support for asylum reception centres in North Africa, which had caused a lively debate in Germany when the Minister for the Interior had openly supported the proposal in September.<sup>20</sup> In the following weeks the issue gradually gained more attention, but by my evaluation it continued to stand in the shadow of the debate on Turkish EU accession until the final days of October. On the occasion of the Commission report on Turkish accession on 6 October 2004, the Christian Democrats reiterated their opposition and started a wide-spread political campaign against Turkish accession and the support it got

<sup>17</sup> 'Verheugen koordiniert die Wirtschaftspolitik', *Frankfurter Allgemeine Zeitung*, 13 Aug. 2004, p. 1.

<sup>18</sup> See, for example, Hendrik Kafsack and Werner Mussler, 'Der freundliche Taktiker', *Frankfurter Allgemeine Zeitung*, 14 Aug. 2004, p. 1 or Thomas Klau, 'Verheugens schwierigster Aufstieg', *Financial Times Deutschland*, 26 Aug. 2004, p. 24: 'Symbolism or real power?'

<sup>19</sup> See the lead comment 'Barrosos 24', *Financial Times Deutschland*, 13 Aug. 2004, p. 35.

<sup>20</sup> 'Buttiglione bekräftigt Vorschläge zur Migrationspolitik', *Frankfurter Allgemeine Zeitung*, 6 Oct. 2004, p. 6. Similarly, 'EU-Kommission: Buttiglione hält an Lagern fest', *Financial Times Deutschland*, 6 Oct. 2004, p. 12, which mentions the anti-discrimination aspects of the debate on the sidelines only.

from the government, Commissioner Verheugen and Germany's large community of Turkish immigrants.<sup>21</sup> The debate got harsher with accusations of populism when the CDU/CSU considered a signature campaign against accession, but this only perpetuated the media attention.<sup>22</sup>

When the showdown came closer, the number of media reports on the events in Brussels increased and gradually reached the front pages. But, contrary to June, national politicians did not actively enter the debate in defence of opposing positions, thereby leaving the stage largely to German MEPs. The only noticeable intervention of Schröder came on the occasion of Barroso's visit to Berlin on 20 October 2004 when he called upon the EP 'to vote convincingly for the President and his Commission', since 'the EU cannot afford a crisis'.<sup>23</sup> On the same day, Schulz declared eventually that the SPE vote would not contribute to this approval unless Buttiglione is moved to a different portfolio<sup>24</sup> – as also demanded by the Greens and the Vice-President of the SPD faction in the German *Bundestag* for whom Buttiglione was 'a disgrace for a country like Italy'.<sup>25</sup> The modest interventions in defence of Buttiglione by CDU/CSU politicians focused not on his substantive views, but on his professional expertise and the danger of an inter-institutional crisis<sup>26</sup> – despite an increasing number of articles and features by intellectuals discussing the relation of politics and religion and Europe's relationship to Catholicism. The German liberals, whose European party holds the balance of power in the EP, finally were at the forefront of opposition to Buttiglione, calling for a shift to a different portfolio, which the head of the German liberals in

<sup>21</sup> Opinion polls of October 2004 indicate that the opposition voiced by the CDU/CSU was supported by a small popular majority and the issue is considered to be an important policy issue. Arguably, the CDU/CSU would have had little political benefit from linking it to the defence of a Berlusconi minister whose views would probably not have been supported by the same majority. Unfortunately, the main German pollster for public television did not regard the Buttiglione issue to be central enough for being included in their October polls <www.politbarometer.de>.

<sup>22</sup> The official press releases of both the SPD and the CDU/CSU in the month of October covered various issues of European policy with a specific focus on Turkey, but none concerned the debate on the future Commission. When the Committee on Civil Liberties, Justice and Home Affairs voted against Buttiglione, the *Frankfurter Allgemeine Zeitung* published its second report on the events on p. 14 of its edition of 14 Oct. 2004; the front-page referred to infringement proceedings, which the Commission started against the 'Volkswagen law', which is repeatedly referred to as a major reason for Schröder's claim for a more industry-friendly Commission.

<sup>23</sup> 'Schröder und Barroso warnen vor Krise in EU', *Financial Times Deutschland*, 21 Oct. 2004, p. 9.

<sup>24</sup> Ibid.

<sup>25</sup> 'Barroso gibt seinen Konfrontationskurs auf', *Financial Times Deutschland*, 20 Oct. 2004, p. 17.

<sup>26</sup> See, for example, the references to conservative German MEPs in 'Der Ton in der Auseinandersetzung über die künftige EU-Kommission wird schärfer', *Frankfurter Allgemeine Zeitung*, 14 Oct. 2004, p. 6.

the EP explicitly linked to the homosexuality of the national party leader who had officially presented his partner to the wider public during the summer.<sup>27</sup>

Unfortunately, little is known about the role of German politicians on 26 October 2004, when it became clear that Barroso would not win the vote in the EP. On that day, Schröder gathered with Chirac and Merkel met Sarkozy in Berlin. It is to be assumed that the future of the Commission was of course discussed at both meetings, but there were neither any public statements nor any media reports about contacts with the political actors in the EP. Arguably, Schröder deliberately decided not to exercise his potential influence on the position of the German MEPs within the European Socialists (PSE). He did not have to fear any negative impact in the eyes of public opinion.

When Barroso retreated, an almost euphoric consensus emerged in Germany that the events were a victory for European democracy. On the morning of 27 October 2004, Pöttering declared it a 'symbol of increased parliamentarism in Europe', the German liberals saw 'a great victory for the modern Europe', the Green Foreign Minister Fischer praised the 'self-confident European Parliament' – only Schröder who had defended the prerogative of the member states to nominate 'their' Commissioner voiced mixed feelings, joking about his own problems with over-confident parliamentarians.<sup>28</sup> The media joined in the general appraisal of European democracy,<sup>29</sup> and when defeat was attributed to individual actors at all, it did not concern domestic German politicians, but the collective of European governments *vis-à-vis* the Parliament in general and the Berlusconi government in particular.<sup>30</sup>

<sup>27</sup> See 'Europa-Abgeordnete zelebrieren Machtprobe', *Financial Times Deutschland*, 27 Oct. 2004, p. 12. According to reports (*supra* n. 23) the liberal party leader had informed Barroso explicitly about the request during his visit to Berlin on 20 October, when the party also issued a press release calling for a portfolio change <www.fdp.de>.

<sup>28</sup> During the IGC, the German government had supported the deletion of Article I-26(2) of the Convention proposal that member states compile a list of three potential Commissioners among which the President-elect chooses. For the reactions of different politicians see "Selbstbewußtes Parlament" – Reaktionen auf Barrosos Wende', *Frankfurter Allgemeine Zeitung*, 28 Oct. 2004, p. 3 and 'Das Parlament genießt den Triumph', *Financial Times Deutschland*, 28 Oct. 2004, p. 11, which also reports that various German conservative MEPs were unofficially 'delighted' about the show of parliamentary strength.

<sup>29</sup> See, for example, the leading comments 'Leitartikel: Straßburger Oktoberrevolution', *Financial Times Deutschland*, 28 Oct. 2004, p. 27, Christoph von Marschall, 'Respekt vor dem Parlament', *Der Tagesspiegel*, 28 Oct. 2004, p. 1 and – more critical – Günther Nonnenbacher, 'Dreierlei Niederlage', *Frankfurter Allgemeine Zeitung*, 28 Oct., p. 1.

<sup>30</sup> See, for instance, under explicit reference to the 2003 Berlusconi-Schulz dispute 'Selbstbewußtes Parlament', *supra* n. 28, or 'Der Verlierer im EU-Streit heißt Berlusconi', *Financial Times Deutschland*, 28 Oct. 2004, p. 11.



## CONCLUSION

The account shows that the German political debate was interwoven with the making of the Barroso Commission, with political considerations in Berlin influencing the events in Strasbourg and Brussels. In this respect, the German case is no exception. But since the frontlines of the domestic political debate differ from member state to member state, the degree of interaction diverges in time and intensity. In June, the CDU/CSU used the momentum of the European elections to inflict a political defeat upon Schröder by contributing to the defeat of Verhofstadt, the German chancellor's declared favourite. In October, the linkage between German and European politics was less pronounced. It is difficult to identify the various motivations, but my personal conclusion is that most national actors remained largely inactive, albeit for different reasons: as the head of government and a member of the European Council, Schröder had to show some solidarity with the choice of his fellow governments *vis-à-vis* the attempt of the EP to reinforce its institutional powers; but as a centre-left leader with mixed feelings about the nomination of Barroso, the portfolio assignments and the Berlusconi government, he sympathised with the fall of Buttiglione. Merkel and the conservative opposition may have felt solidarity with the EPP, but refrained from open support for Buttiglione, which might have had negative repercussions on its campaign against Turkish EU accession.

