



**'Dark matter': institutional constraints and the failure of party-based Euroscepticism in Germany.**

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## **Abstract**

*The paper is built on four propositions. First, that there is a latent potential within the German polity for the mobilisation of what remains a significant level of popular unease about aspects of the ongoing process of European integration. Second, that at present this potential is unfulfilled and, as a result, Euroscepticism remains the ‘dark matter’ of German politics. Third, that the absence of a clearly stated Eurosceptical agenda is not due to the inherent ‘enlightenment’ of the German political class about the European project, but rather is the result of systemic disincentives shaping the preferences of rational acting politicians. Finally, that these systemic disincentives are to be found within the formal institutions of the German polity. The paper posits the ideas of ‘hard’ versus ‘soft’ Eurosceptical narratives, sustained versus heresthetic agendas, and ‘polis constraining’ versus ‘polis shaping’ strategies for their promotion. The paper argues that political agents’ choice of strategy depends on the nature of the institutions institutional setting within which they are operating. The paper concludes by arguing that the institutional configuration of the Federal Republic provides poor returns for party-based Euroscepticism, and that the mobilisation of popular unease about aspects of European integration remains an unattractive option for rational acting political agents.*



## Introduction

### *Euroscepticism - the 'dark matter' of German politics*

At first glance, this paper is an exercise in counter-factual argument. In seeking to explain the impact of institutional settings upon party-based strategies of Euroscepticism in the Federal Republic of Germany, one is not trying to describe the existence of a political phenomena but, rather, to account for its apparent absence. On the face of it, this would appear to be a difficult task. Political elites in the Federal Republic of Germany have always considered their country to be the *Musterknabe* (model boy) of the European Union. In no other large member state has the elite consensus around the European project been so stable. Even in France - the other motor of integration - there have been elite conflicts over the limits of political and economic integration, most notably within the Gaullist Right. Germany, by contrast, has enjoyed decades of cross-party consensus with regard to the desirability of pooled political sovereignty and increased economic interdependence. The stability of this consensus has been enhanced by a compliant media, a relatively pro-European mood amongst the general public, benign institutions/norms of governance (multi-level governance analogous to the EU, a traditional wariness of populist politics amongst elites, and constitutional constraints on the use of plebiscites and referenda), as well as an open economy that has made the most of the opportunities presented by the Common Market and Single Market programmes.

Nevertheless, the potential exists for the emergence of a more 'sceptical' European agenda in the Federal Republic of Germany. There are two sources of evidence for this. The first is elite opinion itself. The consensus that coalesced around Germany's European policy has never been complete and is currently under some pressure. Elite opinion remains broadly pro-European but German unification, and the changes it has brought, have strained the cross-party consensus. On the Left, the Social Democratic SPD flirted briefly with a more sceptical approach to Europe in the mid-1990s, whilst the post-Communist PDS remains hostile to many fundamental aspects of the integration process (the Greens, by contrast, have become very pro-EU over the course of the 1990s). On the Right, the Christian Democratic CDU remains pro-EU but its Bavarian sister party, the CSU, has resisted some elements of the integration process (Bayern has been proactive in forging cross-party alliances at the state level in order to defend its interests and has also developed links with Jorg Haider's People's Party in neighbouring Austria). Thus, the stakes surrounding elite debate have been raised.

The second source of evidence is that of public opinion. Last year's speech in Berlin by Foreign Minister Joschka Fischer, and Chancellor Gerhard Schröder's more recent endorsement of an internal SPD discussion paper on political union are evidence that Germany remains at the vanguard of the push for further integration. However, the Schröder initiative in particular was seen in Germany as just as much an attempt to neutralise 'Europe' as an issue in the run-up to the 2002 Bundestag elections<sup>1</sup>, as it was a genuine contribution to the ongoing debate on political structures which is bound to precede the next Intergovernmental Conference in 2004.

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<sup>1</sup> *Der Spiegel*. 07/05/01.

The fact that the Schröder initiative was regarded as partly an election ploy is indicative of the manner in which the state of public opinion has become more salient in recent years. On the one hand, public opinion towards the broad idea of European integration remains relatively supportive, at around the average level for EU states<sup>2</sup>. However when one looks more closely at popular support for integration, it is clear that public opinion remains uneasy about its pace and scope. Much of this unease is focused on the replacement of the strong D-mark by the Euro, with a recent opinion poll showing 63% of the public to be specifically opposed to monetary union. Such levels of opposition are nothing new: ever since the 1970s, roughly two-thirds of the German population have opposed the idea of monetary union<sup>3</sup>. (More recently the enlargement of the European Union has also become a moot point, with a substantial minority of those polled expressing some hostility to the project)<sup>4</sup>.

Given that the D-mark has become a symbol of Germany's post-war achievements, it is perhaps not surprising that the public remain hostile to its abolition. What is more noteworthy is the failure of any of the Federal Republic's mainstream parties to mobilise around this hostility in a consistent manner. Instead of an emerging Eurosceptical agenda, we see a clear disjuncture between elite and popular opinion. It can be argued that such a disjuncture is not unusual in the Federal Republic. Indeed, in a polity where an incumbent government has only once been removed at the ballot box, elites have found it relatively easy to resist the siren call of populist politics when it suits them. Nevertheless, the fact remains that Euroscepticism is the 'dark matter' of German politics - seen through the lens of the party politics literature, it is to all intents and purposes invisible, but opinion poll data confirms that it is there. So why has it not found an effective political voice within the political mainstream?

### ***Aims and Structure***

The paper aims to account for the lack of a strong Eurosceptic agenda in Germany to date, as well as to provide some pointers as to where such an agenda might have been expected to emerge. Much has been written about the German ideological commitment to European integration<sup>5</sup>, and it is not necessary to repeat such arguments here. This paper, however, looks beyond the role of ideology alone. It takes a rational actor approach and works from the assumption that German politicians are as opportunistic as any others, and the lack of such an agenda is due less to their individual 'enlightenment' on European matters and more to the pattern of institutional constraints found in the Federal Republic. In other words, the coercive, normative and informational variables within the political institutions of the Federal

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<sup>2</sup> *Eurobarometer*. No.50: 24.

<sup>3</sup> see Bulmer, S. and Paterson, W. E., 1987: *The Federal Republic of Germany and the European Community*. Allen and Unwin; 'Abschied von der Mark', *Die Zeit* 26/09/91; 'Abschied von der Mark?', *Der Spiegel* 14/12/91; 'Erst jetzt ist bei vielen der Groschen gefallen', *Frankfurter Rundschau* 14/12/91; Rheinhardt, N., 'A turning point in the German EMU debate: the Baden Württemberg regional election of March 1996' in *German Politics* 6 (1), April 1997: 77-99.

<sup>4</sup> attitudes towards enlargement of the EU are differentiated, depending on the candidate country. Thus, the entry of Hungary is favoured by 80 per cent of respondents. However, this falls to 59 per cent for Poland whilst - at the other end of the scale - 58 per cent oppose Turkey's entry and 64 per cent oppose that of Romania [Emnid. Umfrage vom 28. bis 30. April, 2001].

<sup>5</sup> see, for instance, Peters, D., 'the debate about a new foreign policy after Unification' in Rittberger, V. (ed.), 2001: *German Foreign Policy after Unification*. Manchester University Press; Paterson, W.E., 1996: 'Beyond semi-sovereignty: the new Germany in the new Europe', *German Politics*, 5 (2).

Republic - what Kitschelt calls its political opportunity structure<sup>6</sup> - have, up to now, made the pursuit of a Eurosceptical agenda difficult, unrewarding and, for instrumental politicians, an irrational course of action.

The paper is structured as follows. In the next section, the paper's theoretical grounding is set out - including a discussion as to how we can categorise Eurosceptic narratives, the types of agendas that harness these narratives, and why institutions determine the kind of strategies adopted to promote such agendas. Following on from this, the core of the paper is given over to an analysis of the specific institutional settings in the Federal Republic of Germany and their impact upon party-based Euroscepticism. Finally, the paper concludes with an assessment of the prospects for what remains at present a disparate opposition to the European project.

## Theory

### *Institutional settings*

As already noted, this paper assumes that the institutional setting of the Federal Republic of Germany is crucial to the success or failure of party based Euroscepticism. But what, in the context of this argument, constitutes an institution? One useful starting point is Hall's structuralist definition of institutions which, he argues, includes 'the formal rules, compliance procedures, and standard operating practices that structure the relationship between individuals in various units of the polity and economy'<sup>7</sup>. This approach is echoed by Ikenberry, who argues that institutions operate on three levels: ranging 'from specific characteristics of government institutions, to the more overarching structures of the state, to the nation's normative social order'<sup>8</sup>. Game theorists, on the other hand, tend to take a minimalist approach to institutions; for instance Riker regards them as little more than 'congealed tastes'<sup>9</sup>, whilst Ostrom describes them as simply 'prescriptions about which actions are required, prohibited or permitted'<sup>10</sup>.

As also noted, this paper takes a rational actor approach in that it assumes that politicians are instrumental utility maximisers rather than cultural dupes. Nevertheless, institutions provide the arenas within which political agency is practised and they are more than just passive settings for such agency. Therefore, the paper works from the assumption that institutions, to an extent, 'are political actors in their own right'<sup>11</sup>. As such, they constitute a series of veto points on political agency, often forcing politicians to adopt 'satisficing' strategies<sup>12</sup>, in which the 'best' option is

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<sup>6</sup> Kitschelt, H., 1986: 'Political opportunity structures and political protest: anti-nuclear movements in four democracies' *British Journal of Political Science*. 16 (1)

<sup>7</sup> Hall, P., 1986: *Governing the Economy*. Oxford University Press: 19.

<sup>8</sup> Ikenberry, G. J., 'Conclusion: an institutional approach to American foreign economic policy' in Ikenberry, G. J., Lake, D. A. and Mastanduno, M. (eds.), 1988: *The State and American Foreign Economic Policy*. Cornell University Press: 222-3.

<sup>9</sup> Riker, W. H., 'Implications from the disequilibrium of majority rule for the study of institutions' in *American Political Science Review* 74, 1980: 432-446.

<sup>10</sup> Ostrom, E., 'An agenda for the study of institutions', in *Public Choice* 48, 1986: 3-25.

<sup>11</sup> March, J. G. and Olsen, J. P., 'The new institutionalism: organisational factors in political life', in *American Political Science Review*, 78, 1984: 738.

<sup>12</sup> Simon, H. A., 1965: *Administrative Behaviour*. Free Press.

eschewed for one that is good enough. Thus, institutions curb the behaviour of politicians: privileging path-dependent strategies which, in the context of the paper, tend to be ones that re-enforce the dominant pro-European consensus. The nature and scope of these institutions can be placed on a continuum, ranging from formal legally-codified practices through to more inchoate organisational networks and norms. However, the paper will concentrate upon the more formal institutions, and the practices and norms associated with them.

***Polis-constraining and polis-shaping strategies***

This focus on formal institutions is compatible with the paper’s assumption that politicians are instrumental agents. For conventional political entrepreneurs working within political parties, the arenas for political agency remain the core institutions of the formal polity. Moreover, the pattern of constraints within these core institutions will determine the kind of political strategies adopted by political agents.

The paper argues that these strategies can be classified as either ‘polis-constraining’ or ‘polis-shaping’ in nature. This dichotomy builds upon the work of Alfred Stepan, who constructed a framework for the comparative analysis of federal systems by placing them along a ‘demos-constraining-demos-enabling’ continuum<sup>13</sup>. Stepan’s framework analyses federal systems as institutional settings. However, because of the paper’s concentration on party political agency within these institutional settings, I have adapted Stepan’s terminology in order to shift the focus away from the demos (the enfranchised population with the polity) and more on the polis (the organised expression of political interests within the demos). Thus, polis-constraining strategies are those that attempt to constrain the central polity from without (in this case, using the demos constraining nature of German federalism as a resource). To this, I have added the second category of polis-shaping strategies, which are adopted within institutions where it is possible to shape or shift the parameters of power and discourse at the centre from within. Table One, below, sums up how the new ‘polis-constraining-polis-shaping’ dichotomy maps onto the institutions of the Federal Republic:

**Table One. Institutional settings and political strategies in the Federal Republic of Germany**

| Strategy           | Institutional setting                                                                                                                                                        |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Polis-constraining | German system of federalism, including the division of competencies between the Federation and the <i>Länder</i> , Bundestag-Bundesrat relations and state-level coalitions. |
| Polis-shaping      | Federal party system, including the role of multi-party systems, proportional representation, political competition and election outcomes (coalition government).            |

<sup>13</sup> Stepan, A., 2001: *Arguing Comparative Politics*. Oxford University Press.

### ***Agendas and agents***

Having established the kind of strategies that are appropriate to particular institutional settings, it is necessary to differentiate between the types of agendas that these strategies are designed to promote and the status of the political agents that promote them. In terms of agendas, one must make a distinction between sustained agendas - that are developed across time and often space and reflect the core values of those that promote them - and what Riker<sup>14</sup> calls heresthetics. Heresthetic agendas are exercises in political manipulation designed to change the balance of political forces to the advantage of the heresthetician, by introducing a new dimension of issue salience into the political game. This is not to say that such agendas are always insincere or are never grounded in core beliefs, but rather that their salience at a given time and place is a means to an end rather than an end in itself. Thus, in terms of Euroscepticism, sustained agendas are those that are more or less consistently held across time and space and reflect a set of stable preferences concerning European integration, whilst heresthetic agendas are limited to particular 'issues' and reflect less stable preferences or even indifference to the issue.

Following on from this, the type of agenda chosen by political agents is dependent on the agents' resource status within a given institutional setting - in other words, the resources agents have in their possession relative to their opponents. Having said this, however, there is no clear pattern between agendas and relative resource status. Sustained agendas may be pursued by agents, regardless of status, whilst heresthetic agendas may be indicative of relative strength (the ability to introduce a new dimension into the political game) or weakness (the need to do so). In the context of this paper, the status of agents is determined by, first, whether they are political parties *per se* or smaller factions within parties and, second, the strength of their territorial base. This is discussed at greater length later in the paper.

### ***Defining Euroscepticism***

Finally, it is necessary to unpack the narrative of Euroscepticism that informs the agendas described above. The use of the phrase 'Euroscepticism' is problematic. It is not a social scientific term, but rather a self-ascribed categorisation that entered the political discourse towards the end of the 1980s and gained popular recognition during the Maastricht Treaty ratification process in the UK in the early 1990s<sup>15</sup>. At the time, the term was an accurate description of the public pronouncements of those who identified themselves as Eurosceptics. These individuals were to be found mainly on the Right of the Conservative party (in particular, those associated with the Bruges group of Thatcherite MPs) and, to a lesser extent, what remained of the 'Bennite' left of the Labour party. However as the Conservative party drifted rightwards during the 1990s, the issue-salience of 'Europe' rose significantly and, as the Right grew in confidence, the discourse of Euroscepticism often became one of outright Europhobia. At the same time, there remains a body of genuinely 'sceptical' MPs in all of the major parties. As a result, Euroscepticism *per se* is no longer a sufficient descriptive category and needs to be differentiated.

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<sup>14</sup> Riker, W. H., 1982: *The Art of Political Manipulation*. Yale University Press.

<sup>15</sup> see Milner, S. , 'Introduction: a healthy scepticism?' in *European Integration* 22, 2000: 1-13.

In recent years, a substantial literature has emerged examining the basis and extent of Euroscepticism in EU member states<sup>16</sup>. The approach and scope of this work is heterogeneous, but a common theme throughout is that the configuration of party politics in specific member states goes a long way to determining the 'spread' of party positions on Europe within each state. Taggart and Szczerbiak continue this party politics focus and come to a number of explicit theoretical positions on Euroscepticism. They start from a basic description of Euroscepticism as 'the idea of contingent or qualified opposition, as well as incorporating outright and unqualified opposition to the process of European integration'<sup>17</sup>, and then develop a binary division between 'hard' and 'soft' Euroscepticism. 'Hard' Euroscepticism is defined as the outright rejection of the integration project in its current form and opposition to their country joining, or remaining in the EU, whilst 'soft' Euroscepticism is contingent or qualified opposition. The authors then go on to further differentiate between two types of 'soft' Euroscepticism: that of 'policy' and 'national interest' Euroscepticism. Policy-based Euroscepticism is not incompatible with overall support for European integration, but focuses on opposition to the extension of EU competencies in specific policy domains. National-interest Euroscepticism is also compatible with overall support for European integration, but involves the use of rhetoric defending the national interest in order to shore up domestic support bases<sup>18</sup>.

For the purposes of this paper, the Taggart/Szczerbiak typology's focus on party politics and division between 'soft' and 'hard' variants of Euroscepticism works well as a robust and intuitively plausible basis for analysis. However, the further division between 'policy' and 'national-interest' forms of soft Euroscepticism is superfluous. There are three reasons for this. First, the rhetorical use of the national interest in order to shore up domestic support is part of the basic toolkit of any serious politician - even the arch-integrationist Helmut Kohl resorted to it from time to time (for instance, during negotiations on the remit of the European Central Bank in the mid-1990s). In fact, it would be hard to find a prominent politician who has not indulged in this type of rhetoric (which would be better described as an example of the heresthetic agendas described in the previous section). Second, having discounted national interest rhetoric, I would suggest that all substantive objections to EU integration that fall short of 'hard' Euroscepticism are, in practice, objections about policy. These may be broad-brush objections about policy processes (such as the breadth and scope of EU competencies) and objectives (for instance, the overall shape of the EU's political economy or its international role), or they may focus on more specific policy domains (such as Justice and Home Affairs, or Environmental policy). Nevertheless, they are policy-oriented objections that are qualified rather than

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<sup>16</sup> for work on western Europe, see Marks, G. and Hooghe, L., 'National parties and the contestation of Europe' in Banchoff, T. and Smith, M. P., (eds.), 1999: *Legitimacy and the European Union*. Routledge; Marks, G. and Wilson, C. J., 'The past in the present: a cleavage theory of party response to European integration' in *British Journal of Political Science* 30, 2000: 433-459. For work on eastern Europe, see Henderson, K. (ed.), 1999: *Back to Europe: Central and Eastern Europe and the European Union*. UCL Press; Szczerbiak, A. 'Europe as a re-aligning issue in Polish Politics', paper presented at the annual meeting of the Political Studies Association, Manchester, UK, April 10-12 2001. For work on the EU party system, see Hix, S. and Lord, C., 1997: *Political Parties in the European Union*. Macmillan.

<sup>17</sup> Taggart, P. and Szczerbiak, A., 'Parties, positions and Europe: Euroscepticism in the EU candidate states of Central and Eastern Europe', paper presented at the annual meeting of the Political Studies Association, Manchester, UK, April 10-12 2001: 5-6.

<sup>18</sup> *Ibid.*

absolute and, therefore, resolvable through negotiation at the inter-governmental level. Therefore, they remain compatible with the spirit of the EU project - although it is possible that too many policy-specific objections would make a nominal commitment to EU integration unworkable in practice. Finally, if one accepts that the division between the 'national-interest' and 'policy' strands of 'soft' Euroscepticism is contested and not absolutely essential, it should be discarded on the grounds that it compounds the perennial comparative politics problem of 'too many variables and too few cases'.

That being said, however, the paper the simplified Taggart/Szczerbiak model can be adapted to provide three robust categories on which one can map the positions of political parties in Germany. These are set out in Table Two, below.

**Table Two. A Typology of Party Positions on European Integration in the Federal Republic of Germany**

| <i>European Consensus</i> | <i>'Soft' Euroscepticism</i>                      | <i>'Hard' Euroscepticism</i> |
|---------------------------|---------------------------------------------------|------------------------------|
| Greens                    | PDS**                                             | DVU/NPD/Reps.                |
| SPD                       | Elements of SPD left                              |                              |
| FDP                       | National-Liberal FDP                              |                              |
| CDU/CSU*                  | Elements of CDU right<br><i>CSU Landesverband</i> |                              |

\* the CDU and CSU are members of a joint Parliamentary faction in the Bundestag and are, therefore, effectively a single party at the Federal level.

\*\* the PDS rejects key elements of the integration process, including Economic and Monetary Union, but are in favour of membership of the EU. This raises problems about where to place them within the typology. However, it is the author's judgement that they must be classified as a 'soft', rather than a 'hard', Eurosceptic party.

The first, and dominant, category is that of the pro-European consensus, encompassing all of the mainstream parties at the Federal level of party politics. The second category is that of 'soft' Euroscepticism and encompasses the PDS, elements of the SPD's left-wing, the 'national-liberal' faction within the centrist FDP, parts of the CDU's right-wing, and the dominant faction in the *Landesverband* (state party organisation) of the CDU's sister party the CSU (led by Minister-President Edmund Stoiber). Finally, the third category encompasses the three far right parties, the DVU, NPD and Republican party. Because of these parties' low level of support, and pariah status within the party system, this third category is less important than that of 'soft' Euroscepticism.

## German federalism as an institutional setting

### *German Federalism in a comparative context*

Germany is a federal state. In this, it shares six institutional characteristics with other modern federations such as the United States, Canada, Australia and Switzerland. First, in all of these states, there are at least two constitutionally-protected tiers of government, acting directly on the people. Second, the allocation of jurisdiction and resources to the tiers is constitutionally-codified. Third, where overlaps of constitutional jurisdiction exist, 'federal comity' is preserved through provisions for shared rule. Fourth, the composition and practices of central institutions include some degree of constitutionally protected representation of regional and minority views. Fifth, any amendment of the constitution requires the endorsement of a stated proportion of the governments or electorates of the constituent units. Finally, in each of the constituent parts of the federation, there is an 'umpire' to adjudicate on constitutional matters (in Germany, this is the Federal Constitutional Court)<sup>19</sup>.

That being said, however, all federations are not the same. William Riker dichotomises federal systems into 'decentralised federalism' versus 'centralised federalism'<sup>20</sup>. However, as already noted, for the purposes of this paper Alfred Stepan's 'demos constraining-demos enabling' continuum is a more fruitful source of differentiation as it encompasses the idea of federalism as both an institutional restraint upon, and facilitator of, political agency.

Stepan starts from the assumption that 'all democratic federations, *qua* federations, are centre constraining'. There are four reasons for this. First, as noted above, federations are characterised by constitutional checks and balances that protect the powers of the constituent units against the centre. Therefore, the centre must accept that some issue areas are constitutionally beyond its jurisdiction. Second, the existence of constitutionally protected sub-national tiers of government means that the demos is diffused into multiple demoi and divided into multiple authority structures. Third, federal constitutions require a certain level of assent from the constituent parts before amendment is possible (remembering that the hardest rules to change are decision rules that require a positive vote from those who nevertheless benefit from the status quo). Finally, as a corollary to the previous three factors, federal constitutions are, as a rule, more complex than those of unitary states. As a result, they tend to privilege the importance of the judiciary as an arbitrator of boundary disputes and enhance its status as a political actor in its own right<sup>21</sup>.

If these four factors inherent to federalism are demos constraining, it follows that political agents can use federalism as a platform for strategies that attempt to constrain organised political interests within the demos. Not only, as Tarrow observes, do 'decentralised states provide a multitude of targets at the base'<sup>22</sup> of the polity for agents opposed to the central polis, they also provide constitutionally-protected and independently-resourced platforms from which to launch more formal

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<sup>19</sup> see Jeffery, C. and Savigear, P. (eds.), 1991: *German Federalism Today*. Leicester University Press: 28.

<sup>20</sup> see Riker, W. H., 1964: *Federalism: Origin, Operation, Significance*. Little.

<sup>21</sup> Stepan, A., 2001 Op Cit: 335-6.

<sup>22</sup> Tarrow, S. 1994 Op Cit: 81.

and institutionalised strategies of opposition<sup>23</sup>. In other words, they potentially encourage polis-constraining strategies, including Eurosceptic strategies.

### ***How demos-constraining is German Federalism?***

Nevertheless, the question remains as to what extent does the specifically German system of federalism provide such a potential for opposition. The first step to answering this is to establish where the Federal Republic is placed along Stepan's demos constraining-demos enabling continuum. Stepan operationalises his continuum by mapping the institutional characteristics of a number of modern federations (including the United States, Brazil, India, Austria, Belgium and Germany) onto four key variables, each of which comes with an *a priori* proposition about its demos-constraining qualities. These are set out in Table Three below.

Overall, Stepan places Germany's system of federalism around the middle of his comparative ranking. In terms of the first variable, the degree of overrepresentation of the territorial chamber, the least overrepresented system is Belgium (with a Gini-coefficient of overrepresentation of 0.015), whilst the most overrepresented is Brazil (with a coefficient of 0.52). Germany, by contrast has a coefficient of 0.32<sup>24</sup>. Nevertheless, Germany's middle-ranking still represents a significant degree of territorial overrepresentation. Under the 1949 Basic Law (amended after Unification), all German states have between three and six votes in the second chamber, the Bundesrat. The two most populous states, North-Rhine Westphalia (population: 17,893,045) and Bayern (11,993,484), have only six votes, whilst at the other end of the scale the city-states of Hamburg (1,705,900) and Bremen (679,757)<sup>25</sup> have three votes. To sum up, this is quite a high of territorial overrepresentation and its demos constraining potential is considerable.

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<sup>23</sup> see Lees, C., 'Social Democracy and Structures of Governance in Britain and Germany: how institutions and norms shape political innovation' in Martell, L. *et al* (eds.), 2001: *Social Democracy: Global and National Perspectives*. Palgrave.

<sup>24</sup> *Ibid*: 342.

<sup>25</sup> all data on the population of the German states sourced from Webb, A., 1998: *The Longman Companion to Germany since 1945*. Longman.

**Table Three. Stepan's Four 'Demos Constraining - Demos Enabling' Variables<sup>26</sup>**

|                    |                                                                                                                                                                                                                                                                                         |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Variable 1:</i> | The degree of overrepresentation in the territorial chamber.                                                                                                                                                                                                                            |
| Proposition:       | The greater the overrepresentation of the less populous states (and thus the underrepresentation of the more populous states) the greater the demos-constraining potential of the territorial chamber.                                                                                  |
| <i>Variable 2:</i> | The 'policy scope' of the territorial chamber.                                                                                                                                                                                                                                          |
| Proposition:       | The greater the 'policy scope' of the chamber that represents the principle of territory, the greater the potential to limit the lawmaking powers of the chamber that represents the population.                                                                                        |
| <i>Variable 3:</i> | The degree to which policy making is constitutionally allocated to super majorities or to subunits of the federation.                                                                                                                                                                   |
| Proposition:       | The greater the amount of policy making competencies that are constitutionally prescribed as requiring super majorities or as being beyond the lawmaking powers of the central government, the greater the demos is constrained.                                                        |
| <i>Variable 4:</i> | The degree to which the party system is politywide in its orientation and incentive systems.                                                                                                                                                                                            |
| Proposition:       | The more political parties are disciplined parties whose incentive systems, especially concerning nominations, privileges politywide interests over provincial and local interests, the more politywide parties can mitigate the inherent demos limiting characteristics of federalism. |

In terms of the second variable, the degree of 'policy scope' of the second chamber, the Bundesrat's competencies are fairly modest. Unlike the United States, where the principle of 'symmetry of policy scope' has often led to legislative gridlock, the German system of federalism accords the Bundesrat much less policy scope - although this has changed recently. In the early years of the Federal Republic, only 40 per cent of Bundestag legislation required Bundesrat assent, but this rose to around 60 per cent in the 1990's. Moreover, much of this increased legislative consent ratio was the result of concessions won by the German states during the Maastricht Treaty ratification process. Bundesrat consent is now required when European legislation impacts on those policy competencies reserved for the constituent states (*Verwaltung als eigene Angelegenheit*), such as Education and Science<sup>27</sup>. In addition to these enhanced 'European' powers, the tendency in recent years for there to be divided majorities in the two chambers has increased the importance of the Bundesrat's power of 'suspensive veto', which forces contested legislation to be considered by a joint committee drawn from the two chambers<sup>28</sup>.

Ranking of countries according to the third variable, the degree to which policy making is constitutionally allocated to supermajorities or to subunits of the federation,

<sup>26</sup> Stepan, A., 2001 Op Cit: 340-1.

<sup>27</sup> see Jeffery, C., 1994: *The Länder Strike Back: Structures and Procedures of European Integration Policy Making in the German Federal System*. Centre for Federal Studies, University of Leicester, Discussion Papers In Federal Studies No. FS94/4.

<sup>28</sup> this tactic was used particularly effectively by the SPD, under the leadership of Oskar Lafontaine, in the last years of the previous Kohl administration in the mid-1990s and, to a lesser extent, by the CDU/CSU at present (see Lees, C., 2000: *The Red-Green Coalition in Germany: Politics, Personalities and Power*. Manchester University Press).

also places Germany about half-way along the demos constraining-demos enabling continuum. However, analysis of this variable yields an interesting dichotomy. On the one hand, Article 31 of the Basic Law states that 'Federal law shall take precedence over *Land* law', which means that, in terms of lawmaking power, the central demos is far less constrained in Germany than it is in, for instance, the United States. On the other hand, whereas in the United States many federal programmes are administered by federal employees, the vast majority of German federal programmes are administered by *Länder* officials<sup>29</sup>. This implementation function provides another set of veto points that potentially constrain the majoritarian pro-European consensus and provide a platform for alternative agendas.

Finally, in terms of Stepan's final variable, the degree to which the party system is polity-wide in its orientation and incentive systems, Germany ranks highly. This means that, compared with other federations such as Brazil, India, and the USA, Germany's party system displays strong centralising tendencies. Politywide parties control almost all of the seats in the two chambers and exert a high degree of party discipline over their members. Thus, *ceteris paribus*, the configuration of the German party system is not particularly demos constraining - although in recent years it has become more constrained as the Bundesrat has increasingly used its suspensive veto over Bundestag legislation<sup>30</sup>.

## **German Federalism as a platform for Eurosceptic strategies**

So what does Germany's ranking along Stepan's demos constraining-demos enabling continuum tell us about the potential of German federalism as a platform for polis-constraining strategies of party based Euroscepticism? Here it is helpful to return to Taggart and Szczerbiak's distinction between 'hard' and 'soft' Eurosceptic narratives.

### ***Discounting hard Euroscepticism***

As already noted, the party political champions of hard Euroscepticism are located on the far right of the political spectrum and are not represented in the Bundestag. All three far right parties have been reasonably successful in gaining representation at the lowest levels of German governance, those of the *Kommune* and *Gemeinde*, but political activity at this level has little or no outside impact and is of no use in terms of agenda-setting. By contrast the *Land* level is a much more effective arena for political action, not least because of *Land* governments' direct input into national politics through the Bundesrat. However, where far right parties have entered *Land* legislatures (such as in West Berlin in 1989, when the Republicans gained 7.5 per cent of the vote and 11 seats in the state legislature<sup>31</sup>), they have been shunned by the other parties<sup>32</sup>. As a result, far right parties have never had the opportunity to actively shape the political agenda at any significant level of governance in the Federal Republic. Indeed, it might even be argued - although it would be hard to demonstrate this - that the far right's anti-EU stance discredits Euroscepticism by association. At the very least, the far right is largely irrelevant to mainstream politics in the Federal Republic and, as a result, it is safe to assume that there is little scope for popular mobilisation around such a hard Eurosceptic narrative.

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<sup>29</sup> Stepan, A., 2001 Op Cit: 352-3.

<sup>30</sup> Ibid: 358.

<sup>31</sup> source: Presse- und Informationsamt des Landes Berlin, 1990.

<sup>32</sup> see Lees, C., 200 Op Cit.

### ***Differentiating Soft Euroscepticism***

But what of those political agendas that harness a form of soft Euroscepticism? Here it is necessary to return to the two distinctions made earlier in the paper about agendas and agents. In terms of agendas, the paper differentiates between sustained Eurosceptical agendas, which have developed over time, and heresthetic agendas, built around a specific issue and limited to time and place. In terms of agents, the key issues are whether, first, agents are Eurosceptic political parties or just sceptical factions within otherwise Euro-orthodox parties and, second, the degree to which agents are able to harness the territorial dimension of German federalism as a platform (in other words, how well embedded are they within *Land* government). Some examples of how this maps onto the institutional setting of German federalism are set out in summary form in Table Four, below.

**Table Four. Examples of party-based Eurosceptical agendas, and territorial embeddedness**

| Party | United? | Faction? | Sustained? | Heresthetic? | Territory?              |
|-------|---------|----------|------------|--------------|-------------------------|
| PDS   | Yes     |          | Yes        |              | Yes (various)           |
| SPD   | Yes     |          |            | Yes          | Yes (Baden-Württemberg) |
| CDU   |         | Yes      |            | Yes          | Yes (Sachsen)           |
| CSU   |         | Yes      | Yes        |              | Yes (Bayern)            |

Given that this segment of the paper is focused on the Federal dimension as an institutional setting for party-based Euroscepticism, some degree of territorial embeddedness is taken as a given and is present in all of the examples. However, what is clear from a far from exhaustive set of examples is that there is indeed no clear link between the resource status of political agents and the type of Eurosceptic agenda being promoted. Let us examine them in more detail.

### ***Sustained agenda/united party***

The only united party that has consistently developed a sustained critique of the European consensus is the post-communist PDS. Moreover, it is clear that the territorial dimension of German federalism has been central to the party's ability to do so. The PDS is the fourth biggest party in the Bundestag with 35 seats, but this support is almost exclusively concentrated in the 'new Federal states' of the former German Democratic Republic and strongly reliant on high shares of the vote in the eastern half of Berlin. Moreover, the PDS is highly dependent on directly-elected 'constituency' seats (allocated on the number of first votes cast), in addition to the list seats (allocated through the *Zweitstimme*, or second vote) on which the smaller parties in the German party system normally rely.

This clear territorial dimension to the PDS' support is reflected in its strength at the *Land* level, where it has consolidated itself as a strong regional party in the new

Federal states of eastern Germany,<sup>33</sup> to the extent that support for the PDS in some areas is well in excess of 30 per cent<sup>34</sup>. As a result, the PDS has become a significant player in subnational government. By the mid-1990s, the party had taken on a 'kingmaker' function by 'tolerating' the formation of a Red-Green coalition in the state of Sachsen-Anhalt and, at present, tolerates a Red-Green coalition in Berlin. Since 1998, it has also been the junior partner in coalition with the SPD in Mecklenburg-Vorpommern. This so-called 'Red-Red' coalition is regarded by some as the template for other coalitions in the east, most notably in the state of Sachsen where the PDS are the second strongest party after the CDU<sup>35</sup>.

If the PDS holds its position in the eastern states, it could become a more significant player within the central polis. There are two reasons for this. First, as William M. Downs suggests, there are vertical linkages between national and sub-national governments. These are of a two-way nature, with the experience of sub-national government arrangements constituting a bottom-up flow of information - a 'feedback' effect - to national party elites and providing a template for future coalitions at the national level<sup>36</sup>. Because of this, sub-national coalitions have indirect polis-shaping qualities. Second, and more significantly, the principle of territorial overrepresentation within the Bundesrat provides the potential for a small number of PDS-influenced states to wield a disproportionate influence within the second chamber and, therefore, exercise constraint on the central polis. This direct polis-constraining role could potentially be further enhanced by the delicate balance of partisan power within the Bundesrat, which enhances the role of small blocking minorities.

At the same time, however, there are limits to the PDS' ability to promote a sustained agenda of soft Euroscepticism. Again, there are two reasons for this. First, even with the enhanced European competences enjoyed by the German states, the salience of 'European' issues at the *Land* level remains quite low. It is true that there are certain policy domains, such as Education and Science, where the states complain of undue interference from the European Union and where they have been successful in getting the Federal government to take up these issues on their behalf. Nevertheless, these are not the kind of policy issues that would form the core of a strong challenge to existing consensus. Second, the PDS is not (and will probably never be) in a position to govern alone in any of the eastern states. Therefore, it must go into coalition with either the SPD or the CDU<sup>37</sup> and be bound by formal coalition agreements. Given that, as already noted, the composition and performance of state-level coalitions have consequences at the Federal level, it is hard to imagine any circumstances in which the SPD would countenance entering into a coalition with the PDS without assurances that its junior partner would tone-down its Euroscepticism<sup>38</sup>.

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<sup>33</sup> Lees, C., 'Bringing the PDS into the coalition equation' in *German Politics* Vol. 4. No. 1. (1995): 150-154.

<sup>34</sup> see McKay, J., The Berlin Land Election, in *German Politics* 9 (1), April 2000: 123-138.

<sup>35</sup> *Der Spiegel* 14/05/01.

<sup>36</sup> Downs, W. M., 1998: *Coalition Government Subnational Style: Multiparty Politics in Europe's Regional Parliaments*, Ohio State University Press: 243 - 266.

<sup>37</sup> however, given that a CDU-PDS coalition is not a serious proposition, the 'Red-Red' option remains the PDS' only realistic route to power.

<sup>38</sup> in the past, the SPD has taken an equally hard line with the Greens when negotiating coalitions at the *Land* level. For instance, in 1989 the Berlin SPD forced the fundi-dominated *Alternative Liste* to

### ***Sustained agenda/party faction***

The other clear example of a sustained agenda of soft Euroscepticism is that developed by the dominant faction of the CSU *Landesverband* in Bayern. In terms of relative resources, the political agents promoting this agenda are not a united party like the PDS. However, they are equally embedded within the territorial dimension of German federalism. Moreover, they also enjoy an 'insider' status, through the CSU's record in Federal government, that the PDS lacks.

As already noted, at the Federal level, the CDU and CSU operate as effectively a single party, with a joint parliamentary faction in the Bundestag. The CSU's self-ascribed role within this arrangement is as a 'conservative corrective' to the both the CDU's moderate wing and also, prior to the CDU/CSU-FDP coalition losing power in 1998, to the influence of the liberal FDP. However, the CSU's centre of gravity resides at the state level and here the CSU *Landesverband* articulates a more aggressively 'Bavarian' agenda. Amongst other things, this agenda feeds off the state's sense of 'otherness' within the Federal Republic and, as a rich state, resentment at the level of fiscal transfers between rich and poor states. Moreover, in recent years, Minister President Edmund Stoiber has reacted to the ongoing Europeanisation of policy-making in the Federal Republic by developing a 'Bavarian' position on some of the key areas of the European project. This process began in earnest following the post-1989 changes in central and eastern Europe, when Bayern came out clearly in support of the enlargement of the European Union. Bayern's position was often framed within a discourse that stressed the historical and moral responsibility of Germany towards its eastern neighbours. However, underlying this were two elements of *realpolitik*. The first involved the need to stabilise the region and enhance Bayern's 'security', which the state government regarded as threatened by upheaval in the east. The second element involved the issue-linkage of enlargement to reform of the EU itself and, in particular, the rolling back of what was seen as Brussels interventionism. Over the decade, this discourse developed to the point that it was described by Jeffery and Collins as 'an anti-interventionist position that has come close at times to UK-style Euroscepticism'<sup>39</sup>. Key positions adopted by Bayern include a re-emphasis of the principle of subsidiarity, reform of the system of structural funds, reform of the Common Agricultural Policy (with a shift from funding production to income support for farmers), and restrictions on the free movement of persons within the Union. Taken together, these proposals resemble the paradigm of a 'soft' Eurosceptic narrative described by Taggart and Szczerbiak.

### ***Heresthetic agenda/united party***

The most notable example of a united party using soft Euroscepticism as a heresthetic took place when the SPD flirted with a more Eurosceptical position in the run-up to March 1996 state elections in Baden-Württemberg. The elections took place during a period of high issue-salience for the topic of EMU and, encouraged by opinion poll data that showed that as much as 80 per cent of the population harboured doubts about the stability of the European currency<sup>40</sup>, the local SPD attempted to exploit the issue

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moderate its stance on NATO and the allied presence in the city before agreeing to enter into coalition with it [Lees, C., 2000 Op Cit].

<sup>39</sup> Jeffery, C. and Collins, S., 'The German *Länder* and EU enlargement: between apple pie and issue-linkage', in *German Politics* 7 (2), August 1998: 91.

<sup>40</sup> see 'Kühle Realisten', *Frankfurter Allgemeine Zeitung* 15/11/95.

during the election campaign. In a strategy endorsed by the party's national leadership, including Gerhard Schröder and Oskar Lafontaine, the state SPD's candidate for Minister-President, Dieter Spöri, likened EMU to a programme for committing harakiri! In particular, he questioned the timing and scope of the EMU process, arguing for a delay of at least five years and, in the meantime, a re-introduction of narrow currency fluctuation margins within the European Monetary System. On top of these specific proposals, Spöri expressed wider doubts about the advisability of going ahead with EMU without all of the major EU economies on board and poured scorn on the proposed name of the common currency, the Euro, which he said lacked appeal and was evidence of how 'unprofessionally monetary union had been prepared'<sup>41</sup>.

Spöri's criticisms of the EMU process were labelled populist by his opponents but, nevertheless, many observers believed that the state SPD would benefit from making EMU a campaign issue. But, in the event, the SPD's share of the vote dropped from 29.5 per cent in the previous election to 25.1 per cent. In fact, the only apparent beneficiary of the SPD's campaign was the far right Republican party, which gained 9.1 per cent of the vote. Subsequent analysis indicated that the SPD's stance on EMU was regarded as inconsistent and opportunistic and that only the Republicans, which had consistently opposed EMU, benefited from further raising the salience of EMU as an issue<sup>42</sup>. Not surprisingly, since 1996 the SPD has avoided a repeat of the Baden-Württemberg heresthetic.

#### ***Heresthetic agenda/party faction***

Finally, an example of a faction of an otherwise pro-European party using soft Euroscepticism as a heresthetic agenda also took place in 1996 and involved the dominant faction of the CDU state party in Sachsen. The catalyst for this heresthetic was the decision of the CDU-governed state to grant a subsidy of DM 779 million to Volkswagen, which operated a plant in the town of Mosel. In June 1996, the European Commission declared the subsidy illegal under EU competition law, prompting Minister President Kurt Biedenkopf to issue a legal challenge to the decision<sup>43</sup>. Although the issue was finally resolved, it generated much resentment about a perceived encroachment on the rights of the German states. Moreover, when the terms and conditions of EMU were being ratified by the Bundesrat in 1998, Sachsen was the only German state that abstained in the vote (all the others voted in favour) – indicating that the state government was still smarting from what it regarded as interference from Brussels.

The heresthetic in this case had four purposes. First, this controlled burst of anti-EU rhetoric was intended to shore-up the position of the CDU in a structurally deprived eastern German state, where the sceptical PDS is the second-largest party. Second, it bolstered Biedenkopf's personal power base in the state by re-enforcing his image as the 'father of the state' (*Landesvater*). Third, it served to put pressure on the CDU/CSU-FDP Federal government and highlight the role of the German states in the formulation of German policy towards the EU. Finally, by embarrassing the staunchly pro-European Helmut Kohl, Biedenkopf was pursuing a political rivalry

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<sup>41</sup> see 'Spöri gegen Harakiri', *Südwest-Presse* 11/01/96.

<sup>42</sup> see Rheinhardt, N. 1997 Op Cit.

<sup>43</sup> see *Teilungsfolgen. Materialsammlung zum Streit um staatliche Beihilfe an die Volkswagen AG für ein Investitionsvorhaben im Freistaat Sachsen*. Dresden, Sächsisches Staatskanzlei, 1996.

with the German Chancellor that went back to the CDU's years in opposition during the 1970s.

### ***The limits of polis-constraining strategies***

To sum up this section of the paper, Stepan's typology of federal systems highlights the potential for federal systems to act in a demos constraining manner. Moreover although Germany's system of federalism is not as demos constraining as, for example, the US system, it still retains significant demos constraining potential across Stepan's four variables. First, there is a reasonable level of territorial overrepresentation in the second chamber, which by definition constrains the central demos. Second, although the Bundesrat has a relatively limited degree of policy scope, it has been enhanced in recent years in the very areas that are central to developing a Eurosceptic agenda. Third, although only a modest amount of policy making is reserved for sub-units of the federation, the bulk of policy implementation is carried out by state-level personnel. Finally, although the incentive systems of political parties are generally federation-wide, state parties do enjoy a certain amount of political leeway. This is particularly true of the Bavarian CSU, where it is the state *Landesverband*, rather than the Bundestag parliamentary faction, which is the core ideological and resource base of the party.

Nevertheless, despite the examples described above, as yet the Federal dimension has not proved an effective platform for a coherent challenge to the pro-European consensus. So why is this the case? Somewhat trivially, one could point to the irony that, in practice, the principle of territorial overrepresentation actually works against such an agenda, given that Bayern - the most Eurosceptic state - is also a large state and therefore relatively underrepresented. More seriously, one could point to the gulf in economic development between eastern states like Sachsen and wealthy Bayern, which makes the formulation of a common position an uphill battle. Thus, although both states have been critical of the European Union, Sachsen wants an increase in some aspects of Brussels' role – most notably through an increase in its share of structural funds – while Bayern wants to reduce it.

That being said, it is hard to escape the conclusion that the key factor in this equation remains that of party politics. By their very nature, sustained challenges to the pro-European consensus must be mounted from 'outsider' positions away from the political centre, towards the left and right of the political spectrum. As a result, although there might be some degree of common grievance with Brussels, states governed by parties of the Left will have different interests than those governed by the Right, with different and often conflicting issue-linkages. Moreover, as already noted, *Land* level coalitions cannot operate independently of the Federal level. Even within the demos constraining dimension of German federalism, the party system at the Federal level remains an independent variable. The federal dimension may constrain the central demos, and has provided the platform for political agents to pursue polis-constraining strategies, but it is political agency within the Federal party system itself that shapes the polis. It is to these polis-shaping strategies that the paper now turns.

## The Federal-level party system and ‘polis-shaping’ strategies

### *The changing institutional dynamics of the German party system*

Comparatively speaking, the Federal Republic has been classified as either a ‘two-and-a-half party system’<sup>44</sup> or a three party system, with a smaller party (normally the liberal FDP) acting as the ‘kingmaker’ between the two big ‘catch-all’ parties<sup>45</sup>, the SPD and the CDU/CSU. This triangular relationship is re-enforced by the Federal Republic’s Additional Member System (AMS) of proportional representation, which was introduced in 1953. With exception of a brief period of majority CDU/CSU government in the 1950s, Germany’s AMS system has produced election outcomes which make coalition government a necessity. AMS also produces ‘split-ticket’ voting, whereby voters divide their allegiance between the first (constituency) and second (party list) votes. Split ticket voting tends to benefit small parties like the FDP, Greens, PDS and, to a lesser extent, parties of the far right.

Because it is relatively proportionate, Germany’s system of AMS began to reflect the steady deconcentration of the party system itself. This has reduced the share of the vote enjoyed by the SPD and CDU/CSU<sup>46</sup> and further re-enforced the German party system’s tendency to produce coalition government. The process of party system deconcentration noted above was aggravated by the impact of German unification in 1990, which has effectively grafted on a ‘second’ party system in the states of the former East Germany, within which the PDS is a significant force.

### *Consequences of party system change on political competition*

The overall effect of party system change on political competition in the Federal Republic has been two-fold. First, it has made the two big ‘catch all’ parties, the CDU and SPD, more vulnerable to political competition within ‘their’ wing of the party system. For the CDU, this has come not only from the FDP, but also from the far right parties. However, the far right parties have had no practical impact at the Federal level because none of them have scaled the Federal Republic’s five per cent hurdle to electoral representation. Moreover, even if this was to take place, far right parties remain so far beyond the pale that they would never be considered as coalition partners.

For the SPD, on the other hand, the effects of party system change have been significant. Over the last twenty years, party system deconcentration, combined with the effects of unification, has meant that the SPD has had to face two new political competitors, the PDS and the Greens. Of these, the PDS is only just beginning to emerge as a potential major player at the Federal level. The Greens, on the other hand, have posed a significant threat ever since they entered the Bundestag in 1983. In the 1980s, the SPD tried to counter the threat from the Greens by both adopting a ‘Janus faced’ ideological profile, by reaching out to the Green milieu along the ‘post-

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<sup>44</sup> Blondel, J. (1968). ‘Party systems and patterns of government in western democracies’. *Canadian Journal of Political Science*. 1: 180-203. Reprinted in Wolinetz, S. B. (ed.) (1998) *Party Systems*. Dartmouth: 112.

<sup>45</sup> Kirchheimer, O. (1966). ‘The transformation of the Western European party systems’ in La Palombara, J. and Wiener, M. (eds.). *Political Parties and Political Development*. Princeton University Press.

<sup>46</sup> Padgett, S. ‘The new German electorate’ (1993a). in Padgett, S. (ed.), *Parties and Party Systems in the New Germany*. Dartmouth: 38.; also Forschungsgruppe Wahlen 1990/1994/1998.

materialist' ideological dimension and, at the same time, trying to reassure its core blue-collar electorate. This strategy was only a limited success and, in recent years, the SPD has re-adopted a more centrist political agenda under the rubric of the 'Neue Mitte'. At the same time, the Greens have moderated their ideological profile and entered into a national coalition with the SPD in 1998<sup>47</sup>.

The second effect of party system change has been to undermine the triangular dynamic of party competition. As already noted, from the late 1950s to the early 1980s the party system was dominated by the two big 'catch-all' parties, with the FDP acting as the 'kingmaker' and 'liberal corrective' to its senior partner in coalition government. However, the last twenty years has been characterised by two 'systemic junctures'<sup>48</sup>: one when the Greens entered the Bundestag in 1983 and the other with the arrival of the PDS in 1990. Given that both of these parties are to the left of the SPD, the net effect has been to shift the centre of gravity within the party system leftwards. At the same time what had previously been a triangular system of political competition now shows signs of re-alignment into a more polarised 'two-bloc' system, with the CDU/CSU and FDP on the political right and the SPD, Greens, and PDS on the Left. It is too early to say if such a re-alignment is taking place, with much depending on the outcome of the 2002 Bundestag elections. Questions remain as to whether the FDP can break out of the right-wing bloc, if the PDS is able to consolidate its position, and how the electorate reacts to such a stark choice between left and right? Nevertheless, in theory at least, such a change in the fundamentals of party competition has the potential to skew the dynamics of coalition formation within the system and, by implication, re-shape the polis.

### ***Consequences of party system change on coalition outcomes***

It is unclear, however, what consequences such changes will have for smaller parties within the party system or whether it will widen the ideological range of the coalition win-set enough to give the more Eurosceptical parties some leverage over the European debate. Under the old triangular party system, the two big 'catch-all' parties won the vast majority of votes cast but, in normal circumstances, neither the CDU/CSU or the SPD ever won enough seats in the Bundestag to form a majority government on its own. Therefore one or the other was forced to enter into coalition with the FDP. As a result, with only two exceptions, the FDP was a member of all governing coalitions that formed during this period<sup>49</sup>. Thus the FDP was an almost permanent feature of German government and, acting as the 'liberal corrective' to its senior partner, moderated each successive coalition's ideological position, thus lending continuity and path-dependence to government policy<sup>50</sup>.

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<sup>47</sup> see Lees, C. 2000 Op Cit.

<sup>48</sup> Lees C., 'Coalitions: beyond the politics of centrality?' in Padgett, S. and Saalfeld, T. (eds.), 2001: *Festschrift for Gordon Smith*. Frank Cass.

<sup>49</sup> the two exceptions to this rule were, first, the third Adenauer administration of 1957-61 (the CDU/CSU won a big enough share of Bundestag seats to form a coalition without the FDP) and, second, the Grand Coalition of 1966-69 (a surplus majority coalition between the two big 'catch-all' parties).

<sup>50</sup> combined with a pattern of decision rules and norms peculiar to the Federal Republic, the role of the FDP was central to the centrepetal dynamic within the German party system that Gordon Smith called 'the politics of centrality'. Smith regarded this as the Federal Republic's 'efficient secret', underpinning the remarkable stability of the Federal Republic's political settlement. See Smith, G., 1986, *Democracy in Western Germany* (3<sup>rd</sup> edition). Gower: 231-5.

In terms of coalition theory, as long as the triangular party system persisted, the FDP was the permanent 'median party' or 'Mparty' within the Bundestag. This meant it occupied a position towards the ideological centre of the legislature and no ideologically-connected majority coalition could form of which it was not a member<sup>51</sup>. This 'kingmaker' function, however, began to be eroded as a result of the two systemic junctures of 1983 and 1990, during which time the three-party system expanded to become a five-party system.

Nevertheless, the FDP remained the Mparty – and remained in government - until the defeat of the Kohl government in the 1998 Bundestag elections. The fall of Kohl and the election of a new Red-Green coalition was regarded by many observers as a break with the past, not least because – with the absence of the FDP - there was no continuity of membership between the outgoing and incoming coalitions. However, as Table Five (below) demonstrates, in an expanded party system the Mparty remains in government, but the political centre has moved to the left and the SPD is the new Mparty. Thus, strictly speaking, the present Red-Green coalition is a centrist one and consistent with the established pattern of coalition formation in the Federal Republic.

**Table Five. Bundestag Elections 1983-98<sup>52</sup>. The Persistence of the 'Mparty' in Coalition Government\*.**

|                         | <i>Date of Bundestag Election</i> |                 |                 |                 |            |
|-------------------------|-----------------------------------|-----------------|-----------------|-----------------|------------|
|                         | 06/03/83                          | 25/01/87        | 02/12/90        | 16/10/94        | 27/09/98   |
|                         | <i>Seats in Bundestag</i>         |                 |                 |                 |            |
| <u>CDU/CSU</u>          | 244                               | 223             | 319             | 294             | 245        |
| <u>FDP</u>              | 34                                | 46              | 79              | 47              | 44         |
| <u>SPD</u>              | 193                               | 186             | 239             | 252             | 298        |
| <u>Greens</u>           | 27                                | 42              | 8               | 49              | 47         |
| <u>PDS</u>              | ---                               | ---             | 17              | 30              | 35         |
| <u>Total Seats</u>      | 498                               | 497             | 662             | 672             | 669        |
| <u>Minimum Winner</u>   | 250                               | 249             | 332             | 337             | 335        |
| <u>Mparty</u>           | FDP                               | FDP             | FDP             | FDP             | SPD        |
| <u>Coalition</u>        | CDU/CSU-<br>FDP                   | CDU/CSU-<br>FDP | CDU/CSU-<br>FDP | CDU/CSU-<br>FDP | SPD-Greens |
| <u>Degree of Change</u> | None                              | None            | None            | None            | Total      |

\* Table adapted from Lees, C., 'Coalitions – beyond the politics of centrality?' in Padgett, S. and Saalfeld, T. (eds.), 2001: *Festschrift for Gordon Smith*. Frank Cass.

<sup>51</sup> in his 'Coalition Theories And Cabinet Formation' (Elsevier, 1973), Abram de Swaan constructed what he called the 'closed minimum range' of Cabinet formation. De Swaan's theory predicts that the winning set will comprise the minimal connected winning coalition with the smallest ideological range. This range is mapped along a single Downsian Left-Right axis, running from progressivism to conservatism and all parties are assumed to have preference orderings of all potential coalitions, based upon their relative proximities to the median or 'Mparty' (of both a given coalition and within the legislature as a whole). De Swaan's theory is often referred to as the 'median legislator' or 'median party' model because it is based on the assumption that the party that controls the median legislator in any potential coalition is decisive because it blocks the axis along which any connected winning coalition must form.

<sup>52</sup> source: Forschungsgruppe Wahlen 1983; 1987; 1990; 1994; 1998.

### *Consequences for polis-shaping Eurosceptic strategies*

The persistence of the Mparty in coalition outcomes in the Federal Republic has served to moderate government policy over time. Up until 1998, this role was performed by the FDP but has now passed, at least for the time being, to the SPD. Whether the SPD will retain this role or whether it will pass back to the FDP depends on the SPD's performance – and that of the Greens and PDS – in future Bundestag elections.

But will either of these outcomes create the conditions for successful polis-shaping Eurosceptic strategies? Moreover, is it more likely that such a strategy will come from the political left (the PDS) or from the Right (the CSU)? As far as the PDS is concerned, much depends on its ability to consolidate its position within the Bundestag. Yet even if it were to do so, it is still hard to imagine circumstances in which the SPD would need or want to go into coalition with it. There are two reasons for this. First, the PDS' democratic credentials remain dubious and its ideological position on many issues, not just European integration, is anathema to the vast majority of Social Democrats and to voters in the former West Germany (who make up the bulk of the electorate). Thus, the SPD may consider the PDS a useful political ally within the arena of state politics in the former GDR, but at the Federal level it would be much more likely to choose the Greens or the FDP as a coalition partner. Second, in the unlikely circumstances of the SPD considering going into coalition with the PDS, it would be very much on the SPD's terms. Coalition negotiations in Germany tend to be long, drawn out, and end with the signing of a formal coalition agreement. This is because the stakes are so high. All parties have to be confident that co-operation is possible, not least because of the principle of ministerial autonomy (the *Ressortsprinzip*), which is protected in the Federal Republic's basic law. Given the tendency of parties to staff ministries with their own people, policy making can become a vehicle for inter-coalition rivalry. As a result, the distribution of ministerial seats between the parties is central to the coalition bargaining process and, once a formal agreement has been signed, it is hard to rectify mistakes. During negotiations, policy-specific sub-committees become the key gate-keepers within the process: not just in terms of the allocation of specific portfolios but also in setting the parameters of policy areas and the terms of reference between them. Under these circumstances, there would be no 'ad hoc-erry' on the SPD's part: it would make sure that the PDS was kept on a short leash. Like the Greens before them, the PDS would have to moderate its stance or remain in opposition. This would leave little scope for anything other than the 'softest' of Eurosceptical agendas.

For the CSU, the outlook is not much more positive. Where the CSU does enjoy an advantage over the PDS is that it is accepted as a mainstream party and therefore does not have to moderate its position unduly to enter into government. Nevertheless, in an expanded party system, the CSU finds itself numerically less significant and further from the political centre in ideological terms. As a result, its leverage within the system has been reduced. Moreover, it does not matter if the FDP or the SPD is the Mparty, as neither outcome enhances the CSU's reduced leverage. The current situation with the SPD as Mparty thoroughly marginalises the CSU as a Federal player. But even if the FDP were Mparty any coalition outcome involving the FDP would be a return to the status quo ante, with the centre privileged over the right-wing. In fact, the only set of circumstances in which the CSU would be in a stronger position is one of political meltdown on the centre-left, in which the FDP failed to

enter the Bundestag, the SPD was severely weakened and the CDU became Mparty. It is hard to imagine such circumstances taking place.

To sum up, at first glance the German party system's system of proportional representation and pattern of coalition government would appear to offer opportunities for small parties pursuing a polis-shaping strategy of Euroscepticism. After all, in other proportional systems such as Israel, small parties with relatively extreme agendas have been quite successful in skewing the terms of political debate in a way disproportional to their size and electoral impact. However, for the reasons noted in this section of the paper, this is not the case in the Federal Republic. Since the foundation of the Federal Republic, the pattern of party competition and coalition outcomes has been one that privileges the political centre. As a result, the party with the median legislator, the Mparty, has nearly always been in government. Up until 1998 the FDP was the Mparty, despite the breakdown of the old triangular system of political competition and the expansion of the party system from three to five parties. However, even with the election of Gerhard Schröder's Red-Green coalition in 1998, the principle of centrality remains as the SPD is now the Mparty. Thus, for the foreseeable future, the centre of the party system (as signified by the Mparty) is going to be either the FDP or SPD. Given that both parties are, with some exceptions, pro-European in outlook, any coalition outcome that involves them will adopt a consensus position on European issues. Therefore, one must conclude that the German party system provides a poor institutional setting for polis-shaping Eurosceptic strategies.

## **Conclusion**

This paper is built on four propositions. First, that there is a latent potential within the German polity for the mobilisation of what remains a significant level of popular unease about aspects of the ongoing process of European integration. Second, that at present this potential is unfulfilled and, as a result, Euroscepticism remains the 'dark matter' of German politics. Third, that the absence of a clearly stated Eurosceptical agenda is not due to the inherent 'enlightenment' of the German political class about the European project, but rather is the result of systemic disincentives shaping the preferences of rational acting politicians. Finally, that these systemic disincentives are to be found in the institutions of the German polity.

In order to demonstrate these four propositions, the paper adapts Taggart and Szczerbiak's dichotomy between 'hard' and 'soft' Euroscepticism. The paper then goes on to make a distinction between sustained agendas, and those agendas that are used as a heresthetic. But agendas are of little significance without a strategy for promoting them. Therefore, the paper builds on Stepan's 'demos constraining-demos enabling' continuum and posits the idea of two types of strategies – 'polis-constraining' and 'polis-shaping'. The choice of such a strategy depends on the nature of the institutional settings within which agents operate.

Armed with the distinction between narratives, agendas and strategies (and the six categories that go with it), the paper then assesses the potential and real levels of political opportunity inherent in the German system of federalism and the Federal party system. The paper demonstrates that the institutions of the German polity do not provide fertile ground for the successful mobilisation of anything but the softest Eurosceptical narratives (whilst hard Euroscepticism has no purchase at all within the

German polity). German federalism has provided the institutional setting for a number of Eurosceptic 'turns', but these are to be found either at the political fringe (the PDS), limited to a party faction (within the CSU *Landesverband*), or have been more ephemeral heresthetics (the SPD in Baden-Württemberg, the CDU in Sachsen). Taken together, they indicate that the federal dimension has been a moderately successful platform for polis-constraining strategies of soft Euroscepticism. As for polis-shaping strategies, the logic of party competition and coalition formation means that the German party system – at the Federal level at least – is not a happy hunting ground for Eurosceptics.

This paper is intended to be an exploratory analysis of the impact of institutional settings on party based Euroscepticism in Germany. There is much scope for further comparative research into this impact across space (cross-country comparisons) and time (the iterative impact of institutions, as well as that of institutional change). Nevertheless, this paper is what Allison would call the 'first cut'<sup>53</sup>, and it demonstrates that the institutional configuration of the German polity makes political mobilisation of the population's unease over aspects of European integration an unattractive prospect. This being the case, it is highly unlikely that the political class will ever be split over Europe in quite the way that has taken place elsewhere. As a result, the Federal Republic will almost definitely continue on its current course as the pace-setter of European integration, and German Euroscepticism will remain the 'dark matter' of German politics.

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<sup>53</sup> Allison, G. and Zelikow, P., 1999: *Essence of Decision: Explaining the Cuban Missile Crisis* (2<sup>nd</sup> Edition). Addison Wesley Longman.

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 whilst, at the other end of the scale the city-states of Hamburg (1,705, 900) and Bremen (679,757)<sup>54</sup> have three votes. To sum up, this is quite a high of territorial overrepresentation and its demos constraining potential is considerable.

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<sup>54</sup> all data on the population of the German states sourced from Webb, A., 1998: *The Longman Companion to Germany since 1945*. Longman.