THE PRAGUE POST
www.praguepost.com

February 15th, 2007

Merkel's headache

Or the Czech Republic's lovely fantasy that it can wish the European constitution away

February 14th, 2007

[****PHOTO id=3659****]By Richard Laming

German Chancellor Angela Merkel probably didn't get the reception she had hoped for when she visited Prague in January. She came to discuss the future of the European constitution, as part of her European tour, taking soundings and finding out the views of Prime Minister Mirek Topolánek and President Václav Klaus.

Because Germany is currently in the European Union presidency (it changes every six months), it falls to Merkel to propose a way forward on Europe's stalled constitutional process.

To recap, the whole crisis arose when the French and Dutch referendums in May and June 2005, respectively, produced unexpected majorities against the proposed constitution. Unexpected, that is, at the outset of the whole ratification process, but the opinion polls showed attitudes hardening against the constitutional treaty as time wore on.

The ratification process elsewhere in the EU slowly ground to a halt. Eighteen countries have voted yes, but there are 27 member states of the EU. Eighteen is not enough (and the Czech Republic is not one of the supporters).

The constitution was variously intended to deal with the enlargement of the EU, to prepare Europe for the consequences of globalization and to counteract the democratic deficit. Perhaps because it had so many different objectives, it failed decisively to deal with any of them. Even its supporters acknowledge its limitations: It was the best that could be agreed on at the time.

Its critics, by contrast, made hay. It was simultaneously a charter for a re-emerging socialism and a capitulation to neoliberalism, a further step towards the militarization of the EU and an abdication of its responsibilities around the world. These criticisms could not all be true, of course, but, for potential "no" voters, only one of them was needed to convince each.

Having committed themselves to the treaty, national governments were thus faced with the humiliating rejection of their policy. Some of them, such as Spain and Luxembourg, reacted by restating their commitment to the project; others, such as the United Kingdom and the Netherlands, seemed to hope that the whole thing would simply go away.

The Czech Republic is a special case in that the government has changed hands since the text of the original constitution treaty was agreed on. The Social Democrats who were in power at the time supported the treaty; the Civic Democratic Party (ODS), which has taken over since then, is against it. They cannot, unlike most other governments, be held to a commitment that they have previously made, because this was not their commitment.

Angela Merkel has a headache indeed. This is a true crisis over the future of the constitution: How might it be resolved?

Doing nothing is not an option. The current Treaty of Nice, which remains in force until it is replaced, states that the number of members of the European Commission must be reduced from the present 27 from 2009 onwards. To what number, and how, it does not say. Answering this question alone will require a new treaty of some sort.

And knowing that some kind of treaty is unambiguously necessary provokes all kinds of fires in different political hearts.

Some, such as French socialist presidential nominee Segolene Royal, have insisted that the ratification procedure restart, with some changes to the treaty leading to a further round of referendums. Others, such as her center-right opponent in the forthcoming elections, Nicolas Sarkozy, have suggested abandoning the current treaty for a smaller, less ambitious set of reforms, containing some of the managerial aspects of the constitution but without the broader political significance — Sarkozy has dubbed this a "mini-treaty." This would be designed so it could be ratified by national parliaments throughout Europe rather than triggering a new and potentially dangerous set of referendums.

According to the Czech Constitution, the European treaty could be ratified either by Parliament or by referendum, depending on political interpretation. The previous constitutional treaty was generally agreed to require a referendum; for a "mini-treaty," that remains to be seen.

There are two ways of looking at referendums. Either they are a necessary evil, seeking the

public's consent for changes to the political system, or they could be a positive benefit because they would change the shape of the debate about the political system altogether. A referendum on the European Constitution held in all European countries on the same day would mark a new kind of decision-making on the future of Europe. Citizens would be involved in a way they had never been before. Different politicians are afraid of this for different reasons.

But referendum advocates themselves need to bear in mind the need for information and education in advance of the poll. A referendum that went wrong this time would be much more serious than the failed referendums in France and the Netherlands last time, if only because this was the second time around. Rebuilding the pro-European case after a further popular rejection could be unimaginably difficult.

If that is the European case, what of the Czech case?

I have already noted that the government of Topolánek is, broadly speaking, against the constitution as currently drafted. What he has to take into account is that a great many other EU member states are passionately in favor. A compromise of some sort will be necessary.

History shows that a country that seeks a confrontation with the rest of the EU usually loses out. While Klaus may famously admire Margaret Thatcher, the risk is of emulating not her but her successor as British prime minister, John Major. In the wake of the BSE crisis in 1996 and the ban on British beef exports, Major resolved to disrupt and block European decision-making until the others gave in.

The rest of Europe stuck to the principles of European law, and the Major prime ministership was hollowed out from the inside. He made promises to his own electorate — threats that he could not deliver on — and his party was smashed at the subsequent general election, in the worst Conservative electoral defeat since 1832.

Topolánek should be careful. The auguries are not good. Battles fought by one country against the rest of the EU tend not to end in victory, and sometimes end in humiliating defeat.

The whole point of the EU is that the different countries in Europe are stronger when they work together. A policy that consciously snubs the rest of Europe flies in the face of this principle and is unlikely to succeed. When Merkel next comes to call, Topolánek and Klaus would do well to bear this in mind.

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