

# Values for Money

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WOLFGANG STREECK

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On 24 June Angela Merkel attended what was advertised as her last European Council meeting; prematurely, perhaps, given that the formation of the next German government is likely to take some time. The European Council is that most secretive jamboree of all 27 heads of state and government; the EU's executive and legislative in one. A hotspot of 'multi-level diplomacy', to use the language of American political science, its proceedings are hidden behind a flurry of PR messages carefully crafted for diversified national consumption. On this occasion, there was general agreement that the meeting was a mess; a mess attributed by some to the Council's long-time dompteuse having turned lame duck.

The most spectacular flop was the refusal of the Council to support a German-French proposal for it to meet in plenary with Russian President Vladimir Putin. Leading the opposition were several Eastern European countries who insist on the EU maintaining a maximally hostile posture in relation to Russia. Their position is that any meeting with Putin would have to be conditional on Russia withdrawing from Crimea. They know, of course, that it never will.

Why did France and Germany try in the first place? Preceding their initiative was the Biden-Putin meeting in Geneva, on 16 June. Post-Trump the US is returning to the Democratic Cold War against Russia, needed as a substitute for the Soviet Union, and demanding

that its NATO retinue follow suit. This conflicts with French efforts to seek some sort of accommodation with Russia – not just in Eastern Europe but also in the Middle East – ideally on behalf of the EU as a whole. For this France needs Germany.

Germany, in turn, needs France to support its Nord Stream 2 gas pipeline with Russia, urgently required to secure its energy supply, after having decided, under Merkel, to end nuclear energy and coal at the same time. Siding with the Eastern Europeans, the US opposes the pipeline, hoping to prevent a German rapprochement with Russia and thereby keep the EU united within the American flock. While under Trump it did this rudely, under Biden it speaks more softly – without, however, hiding the big sticks it keeps in reserve for the time after Merkel. France and Germany, the odd couple aspiring in vain to the status of a composite European hegemon, could have gone to see Putin on their own, except that this would have laid bare and further deepened the Eastern fault line of the ‘European project’.

The French-German debacle at the Council meeting closely coincided with two events formally unrelated to the EU, which may nevertheless be of lasting consequence for its future politics. In early June Emmanuel Macron let it be known that he would end Operation Barkhane, the eight-year-old military invasion of several Sahel states on the pretext of fighting Islamist terrorism. Then followed the overthrow of the France-friendly President of the state of Mali by his French-trained military in a successful anti-French coup d’état. Operation Barkhane, with sometimes more than 5,000 French troops, was never popular among French voters, and after the latest setback Macron seems to have feared that its imminent military defeat might jeopardize his already inauspicious reelection efforts next year. His decision to get out was apparently made in French Presidential style, without consulting anyone. Certainly Germany, with up to 1,700 soldiers in the area, was caught by surprise.

At first the German government indicated that it might, on French request, continue the effort on its own until a European Endsieg. But then, while the Council meeting was still underway, a suicide bombing in Mali left 12 German servicemen wounded, making it necessary to fly them home for treatment. Even the *Frankfurter Allgemeine*, otherwise known for its *Nibelungentreue* – its unflinching loyalty – to German allies in general and to the mirage of a French-German ‘tandem’ pulling ‘Europe’ toward a better future in particular, advised that Germany join the French cop-out – though not without hinting that finishing off Islamist rebel leaders could in any case be done both more effectively and covertly by Special Forces.

Not that Germany is on principle averse to being left holding the bag. The second potentially formative event was the US withdrawal from Afghanistan, ending ‘Resolute Support’ (yes, this was the official name of the invasion). France and other members of the American-led posse of the willing had long abandoned the sinking Afghan ship. Germany, however, was still on service, the last of the Mohicans, going into the third decade, by now with a visible force of 1,100, the second-largest behind the Americans, and, of course, an unknown number of Special Ops. When Biden let it be known that unlike Obama and Trump, he had overcome the opposition of his military and would follow through with his decision to get out, the German defense minister, Annegret Kramp-Karrenbauer, aka AKK, publicly mused about staying on. After all, the mission – education for women, clean water in the desert, and preventing young Afghan men from seeking asylum in Germany – was far from accomplished, and official German doctrine still held that, in the words of a former Social-Democratic defense minister, the freedom of Berlin was being defended at the Hindu Kush.

This, however, was too much *deutsche Gründlichkeit* (German thoroughness) even for the German public, and certainly for Biden. On 30 June the last German contingent from Afghanistan arrived at a military air base near Hannover, flags and all, only to discover that

not a single government representative was there to receive them, AKK having flown to Washington for urgent talks on an undisclosed subject. Victory, it is said, has many parents, while defeat is an orphan. To make good, the government is now planning a welcoming ceremony in the courtyard of the Ministry of Defense, hidden to the general public, while the Greens demand a parade in front of the Reichstag. None of this, it is safe to assume, will whip up enthusiasm for further out-of-area military 'missions', be it under German, European or even American auspices.

To return to the European Council, the other high drama that spoiled Merkel's farewell was the next episode in the running soap opera featuring the Hungarian strongman Orbán, with his telling first name, Victor. The Council met during pride month, with LGBTQ parades all over the world. Just in time for the meeting, cunning Orbán had his parliament pass a law ostensibly to protect Hungarian children from information on homosexuality and transsexuality, reserving the responsibility for parents to educate their offspring on life in its diverse forms. Wrapped into that law was a rich assortment of vicious language on gays and lesbians.

Coincident with the Council meeting was the European Football Championship. The European Football Association UEFA, traditionally a rather homophobic environment, had recently discovered anti-discrimination as a new marketing device, to heal its sagging reputation caused by a heavy overdose of corruption. When the Council met, the German national team was preparing to play the Hungarian team in Munich. There the city government, in a spirit of anti-discriminatory hospitality, planned to greet the Hungarian team by lighting the stadium in the colours of the rainbow. UEFA forbade this, in a name of sportsmanship, but allowed the German captain, the World Goalkeeper Manuel Neuer, to wear a rainbow-coloured captain's armband. Germany played a lousy game, foreshadowing its subsequent elimination from the tournament by the English, while the Hungarians went home with their heads held high.

The same can be said for their Prime Minister after the European Council meeting. To understand why one needs to consider the prehistory. To get its 750 billion Next Generation European Union post-Covid debt package passed, the Commission had to promise the EU parliament that payments to Hungary and Poland would be conditional on changes in their domestic policy, to curtail the influence of their governments on their judiciaries, under a new so-called 'Rule of Law Mechanism'. The Commission, however, needed a unanimous vote to circumvent the Treaty prohibitions on borrowing. To get this it had to promise Poland and Hungary that the 'mechanism' would not be used against them until the Court of Justice of the European Union (CJEU) had ruled on its legality, which would be long after their share of the money had been paid out and spent. When this became known, the Parliament was infuriated enough to take the Commission to the CJEU for neglect of its duties.

In response the Commission, to placate the Parliament, did the same with Germany, starting a so-called infringement procedure for violation of the EU Treaties. The violation, according to the Commission, consisted in the German government not keeping the German constitutional court from ruling that the CJEU had acted beyond its powers when it found a particular Quantitative Easing programme of the European Central Bank to be in conflict with the Treaties, the Union's de facto constitution. One reason given by the Commission was that the governments of Poland and Hungary were citing the German constitutional court in arguing that the CJEU must construe the intent of the member states as signatories of the Treaties narrowly rather than broadly, and that it must not be allowed to expand its jurisdiction and that of other EU bodies beyond the strict wording of the Treaties. This is how the 'ever closer union of the peoples of Europe' is being forged, or not forged.

Apart from the EU-Putin meeting, the June Council session was dominated by an emotional debate on Orbán's law. Seeking to close ranks with the EU Parliament, Council members expressed their

disgust not just with Hungary but also with Poland, where some local governments had declared their territories 'LGBTQ-free zones'. Mark Rutte, Prime Minister of the Netherlands, under pressure at home for his government having harassed a sizeable number of destitute families over years for allegedly having illegally collected social security payments, asked Orbán why he didn't just leave the EU, given his contempt for 'European values'. The Prime Minister of Luxembourg, reportedly in tears, let his colleagues know that his mother won't talk to him anymore since he married his male partner. Others from countries whose laws closely resemble those of Hungary and Poland, in part because they are inspired by the Catholic Church – a European institution if there ever was one – did not say a word. The same, it is said, holds for Orbán, who might have been busy calculating the number of votes the event would win him in his national election early next year, compensating for whatever he might lose by way of cuts in EU financial aid.

As for the Commission, it seems to feel that its sex re-education exercise – through leaked reports from a closed meeting – was not sufficient atonement for its secret deals with Orbán, and its failure so far to achieve regime change in either Poland or Hungary. In another turn of the screw, four weeks after the Council meeting, the Commission started more infringement procedures, this time against Poland and Hungary for defying 'European values' by discriminating against LGBTQ. A procedure of this kind could result not just in fines, but in expulsion from the Union, although this would take a long time, during which all sorts of deals could be made. Short of this, the LGBTQ procedures may help to divert attention from the less sexy and more technical rule-of-law issue, where according to the Treaties the Commission must prove that a country's judiciary lacks the independence required to oversee the correct use of EU money. (It will be interesting to see how the Commission manages not to indict countries like Bulgaria, Romania, Slovenia, Slovakia and Malta, always reliable supporters of the Commission, which when it comes to the corrupt use of EU funds, and indeed to corruption generally, must at least be on par with

Poland and Hungary, the same holding for diverse forms of discrimination.)

Whether either sort of measure will prove capable of disciplining Orbán and his Polish counterpart, Kaczyński, is anyway doubtful. The advantage of the LGBTQ proceedings is that they offer more drama and may provide a façade behind which compromises can be made on the EU financial subsidies. Generally, the hope on the part of the Commission seems to be that ‘values’ are a better tool than ‘rule-of-law’ for extending its jurisdiction over the domestic politics of member states, above and beyond treaty language. In any case, the LGBTQ dispute will drag on. To pour oil on the flames, by the end of July Orbán, retaliating for the Commission’s infringement procedure, had called a national referendum on his sex education law. If the case goes to the CJEU, it will keep the Court busy for some while, during which the moral fervour of June 2021 may cool off and geostrategic interests, not least of the United States, in Eastern Europe remaining a Western European-owned thorn in the Russian flesh may reassert themselves.

Read on: Wolfgang Streeck, ‘Markets and Peoples’, NLR 73.