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**GERMANY'S CRISIS
OF CONSENSUS**

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AGENDA

Germany's crisis of consensus



A few days ago in Berlin, police turned their water cannons on a crowd of protesters outside Germany's parliament buildings. An estimated 7,000 locals were gathered there to protest the passing of new pandemic rules.

Many in the crowd were not wearing masks. Some harangued politicians as they tried to enter the building. Others carried signs that said things like "No Corona Hitler" or "peace, freedom, no dictators", likening the new pandemic rules to the dread Enabling Act of 1933 that established Adolf Hitler as a legal dictator who could bypass the German parliament to make laws.

The neo-Nazi extremists, who often join the angry conspiracy theorists and anti-vaxxers at these recurring anti-lockdown demonstrations in Germany, discussed how they might storm the government buildings. Somebody tried to set a police car on fire. Another lifted his arm in a "Heil Hitler" salute. That's why around lunchtime, some of the 2,000 or so Berlin police on site announced that the protest had to end and turned water cannons on the unruly mob.

Nobody was directly targeted, a police spokesperson said. The water was used to make everyone so uncomfortable they left. Authorities also took around 365 people into custody temporarily. This protest was not the only such occurrence in recent weeks. In Leipzig, police and journalists were attacked after a similar demonstration got out of control. In August, protesters in Berlin managed to break through a police cordon and almost got into parliament buildings.

These are strange times in a country often lauded for a political system with inherent consensus- and coalition-building functions. Water cannons and arrest warrants are not traditionally the tools of compromise.

What happened in Berlin last week shows that democracy is not just fighting the virus, German current affairs magazine, *Der Spiegel*, wrote.

The consensus-building model that has characterised Germany since the end of the Second World War is crumbling, local sociologist Teresa Koloma Beck told German national radio, about the protests. "We need a new political model that doesn't rely on this idea that we are all the same," she suggested. "Although," she added, "it is also clear that many of those on the street no longer even want to

The country is often praised for a political system built on compromise and coalitions. But what happens when that model meets hard-ball-playing European authoritarians abroad and conspiracy-theorists at home? CATHRIN SCHIAER reports



play that game."

A similar sort of consensus crisis looms for Germany internationally, at EU level. Last week, Hungary and Poland threatened to vote against the EU's next seven-year budget and pandemic recovery fund worth around 1.8 trillion euros. Most of this has already been negotiated and agreed upon – a unanimous vote by the 27 member states of the European Union is now needed to sign off on the funding. But if they vote against it, Hungary and Poland will be holding up financing for the whole continent, much of it needed by southern states to deal with economic fallout from the Covid-19 pandemic.

This particular fracas comes after the EU took its first steps towards a new rule which says that member states who do not abide by the rule of law may see their EU funding restricted. There are other EU rules that threaten to take away an unruly member state's voting rights. But this new 'rule of law conditionality' is the first one directly connected to funding.

Unlike the EU budget though, these new rules can be passed by a majority. That is, if most of the 27 member states like them – as apparently they do – they will go into effect. It's been clear for a while that Hungary, where increasingly authoritarian leader Viktor Orban is accused of interfering with the local judiciary, and Poland, where similar meddling is reported, might well fall victim to those new rules.

"Most likely, they [Hungary and Poland] are using this dispute to send a powerful warning shot," Daniel Kelemen, a professor of political science at Rutgers

University and expert on EU politics and law, explained in an op-ed for *Politico*. "While they may not be able to prevent the rule-of-law regulation from being adopted, they are sending a signal... If you ever dare to suspend our funds, we will grind the EU to a halt, vetoing anything and everything that requires unanimity."

Because Germany is currently holding the EU council presidency, it should by rights be bringing its skills as a consensus-builder to the table in Brussels. "We have a duty to try to find a way forward," German chancellor Angela Merkel said recently.

But there's a problem: "One of the core

NO COMPROMISE: Police clash with demonstrators near the German parliament, as water cannons are used to break up a protest against coronavirus restrictions

Photo: Getty Images

underlying principles of the EU treaties is that member states are supposed to respect a principle called sincere cooperation," Kelemen tells me. "However that system starts to break down when you have bad faith actors. All states violate EU law once in a while. But here we have truly authoritarian regimes that are taking advantage of those expectations of sincere cooperation. There's no point in trying to build consensus in a democratic system with those who are seeking to undermine democracy."

In fact, he says, Germany's consensus-seeking ways are at least partially to blame for what is currently being

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described as an existential crisis for the EU. In the European parliament, Hungarian leader Orbán's Fidesz party is a member of the conservative European People's Party, or EPP. So is Merkel's Christian Democratic Union party (CDU). And despite several attempts by other EPP member parties to kick Fidesz out of the group, it remains in – partially because, Kelemen and others argue, of the CDU's tendency to prefer compromise to direct attack.

"It's not like they [the CDU] favour this model of government," Kelemen notes. "It's that they didn't want to rock the boat, so they have favoured appeasement. The very valuable German norm of

consensus-seeking is usually a huge asset for them in the EU. But in this particular dispute it's actually a huge liability because it leads to an approach that is totally ineffective."

That urge to find a compromise and build consensus has mostly been an advantage for Germany, agrees Nathalie Behnke, a professor of political science at Technical University Darmstadt. Decision making may take a little longer here and the outcomes are not necessarily "spectacular", she concedes. "[Decisions] may have been watered down; there may only be incremental changes." But the advantage is that by the time a law is passed, it usually has

broad support and has been considered from all angles, notes Behnke, who, after years of research into how different local political organisations – including German's states, federal government and political parties – work together, believes that hers could be the most consensus-seeking country in Europe.

As an example, Behnke points to the recent infection protection law, which was meant to give legal certainty to lockdown rules but which also saw the water cannons rolled out.

"Even with this particular decision, a broad majority agreed on it, at parliamentary level and among the state governments," Behnke explains. After a

heated debate, around two-thirds of MPs voted for the new rules: consensus was sought – and found, the German system worked as it was supposed to.

It's just that the anti-lockdown protesters on the streets of Berlin that day no longer seem to trust in that system. However, as long as they remain in the minority, this won't cause a consensus crisis, Behnke suggests. Members of Germany's extreme right-wing party, the Alternative for Germany, or AfD, have gone to the anti-lockdown protests. "But right now, unlike in the USA, we don't have any major political power that represents those points of view," Behnke explains, "Most of the political class here is still fairly sensible."

American politics professor Kelemen believes that Germany foreign policy could do with some of that attitude. "When it comes to the AfD, nobody [in domestic politics] is advocating consensus. Working with the AfD is a red line," he points out, noting that whenever a mainstream party has come close to doing so in domestic politics, it has lost their support. "So why the double standards in Europe?"

Germany's urge to build consensus and a traditional reluctance to be seen interfering in the matters of other states, born out of the country's own history, are likely factors. But Kelemen believes it is more cynical than that. Recent research he has been doing indicates that most German voters are not even aware that their CDU – the party run by the woman many have described as the leader of the free world – belongs to the same group that Hungarian leader Orbán's party does, at EU level. "I think if the CDU lost votes at home because it was in league with Orbán, they would change their tune right away," suggests the political scientist.

Interestingly enough, that may be about to happen. After news of the uncooperative move by Hungary and Poland broke, editorials around Germany stressed the importance of not giving in to the blackmailers, of maintaining the European community of values and of the irresponsibility of such high stakes gambling. "If the EU lets this happen, it may as well dissolve itself," one writer put it.

The proposed veto not only threatens the EU project, something the majority of Germans support, it also snipes at national self-image: The good German builds consensus to get things done. So, while in Poland, a government minister was insisting on "veto or death" via Twitter and the Hungarian justice minister was busy comparing the EU to her country's former Soviet overlords, some Germans were already plotting a compromise.

Two German economic research institutes, including the ZEW Mannheim and the German Economic Institute in Cologne, suggested that EU funding for the Covid-19 recovery plan simply be separated from the main EU budget. It could then be turned into intergovernmental funding agreements between just 25 states, senior economists suggested, leaving Hungary and Poland out of it. The preliminary results of an online survey, started on November 22 by market research company Civey, were already clear on German public opinion about this: Almost 70% of more than 20,000 respondents agreed that kind of compromise was a great idea.