



universität
wien

MASTER THESIS

Titel der Master Thesis / Title of the Master's Thesis

**"Austria – Europe's Problem Child in the year 2000"
Implications of the Sanctions by the EU 14 against Austria**

verfasst von / submitted by

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angestrebter akademischer Grad / in partial fulfilment of the requirements for the degree of
Master of Advanced International Studies (M.A.I.S.)

Wien 2017 / Vienna 2017

Studienkennzahl lt. Studienblatt
Postgraduate programme code as it appears on the
student record sheet:

A 992 940

Universitätslehrgang lt. Studienblatt
Postgraduate programme as it appears on the
student record sheet:

Internationale Studien / International Studies

Betreut von / Supervisor:

David Petruccelli PhD



diplomatische
akademie **wien**

Vienna School of International Studies
École des Hautes Études Internationales de Vienne

Abstract

The Austrian coalition government in the year 2000 including the Austrian conservative party, ÖVP, and Austria's far-right party, FPÖ, and the subsequent sanction measures by the 14 European Member States, caused an international upheaval. Above all, Jörg Haider, the leader of the Austrian Freedom Party (FPÖ) made public appearances and statements sympathizing with the Nazi regime. The inclusion of a party with xenophobic and racist tendencies connected to Jörg Haider prompted the European countries to respond with condemnation and isolation to discipline Austria with the aim to dissolve the ÖVP-FPÖ coalition government. Given the fact that right-wing populists became a widely acceptable and a mainstream phenomenon not only within the European Union but globally, Austria's crisis in 2000 raises two questions: What were the main driving forces behind the sanction measures? What are the implications of using isolation and condemnation as means to force a member to change a specific behaviour? In an effort, to answer these questions, the circumstances in the year 2000 were analysed from a historical, political and legal perspective. Historical legacies and individual political interests of the European Heads of State are identified as the main driving forces of the politics of isolation. Fear of deeper integration regarding domestic affairs on the one hand and a lack of threshold to identify when a member state is threatening one of the EU's core principles on the other hand, encouraged the European countries to focus on dialogue as a first step. After 2000 until 2017 no Member State was sanctioned again.

Abstrakt

Die österreichische Koalitionsregierung zwischen der konservativen Partei, ÖVP, und der extrem rechten Partei, FPÖ im Jahr 2000 und die darauffolgenden Sanktionsmaßnahmen der 14 EU Mitgliedstaaten, haben international für Aufruhr gesorgt. Vor allem der damalige Parteichef der FPÖ Jörg Haider, ist immer wieder mit Aussagen und Auftritten aufgefallen, die Sympathie mit dem Nazi Regime deuteten. Als Antwort auf die Einbindung einer Partei, die xenophobe und rassistische Tendenzen aufweist, wurde Österreich verurteilt und isoliert. Ziel der Sanktionen war es Druck auf Österreich auszuüben, um die Regierung aufzulösen. Der Fakt, dass rechtsextremer Populismus weitestgehend akzeptiert und innerhalb der Europäischen Union etwas „Normales“ wurde, lässt in Bezug auf die Österreichkrise zwei Fragen aufkommen: Was waren die treibenden Faktoren hinter den Sanktionsmaßnahmen? Sind Isolierung und Verurteilung zielführende Maßnahmen, um einen Mitgliedstaat dazu zu bringen ein gewisses Verhalten einzustellen? Im Bestreben diese Fragen zu beantworten, wurden die Umstände im Jahr 2000 von einer historischen, politischen und geschichtlichen Perspektive analysiert. Geschichtliches Erbe und individuelle politische Interessen der europäischen Staats- und Regierungschefs, wurden als Hauptkräfte für die politische Isolierung identifiziert. Unsicherheit über das Fortschreiten der Integration in innerpolitische Agenden und das Fehlen eines konkreten Maßstabes, wann ein Mitgliedstaat europäische Grundprinzipien gefährdet, hat die Staaten der EU dazu veranlasst, bis heute, auf Dialog anstelle von Sanktionen zu setzen.

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Introduction

Before the elections in 1999, Austria was often described as a best practice of European integration. The country had become a strong democratic republic with a convincing social system. During the 1970s and 1980s Austria was even referred to as the “island of the blessed” due to its fast recovery and social peace after World War II. When in February 2000, however, the conservative rightist government was sworn in in Austria, the tide had turned. The country received widely condemning responses from the international sphere. The government in 2000 was headed by Chancellor Wolfgang Schüssel of the Austrian People’s Party (ÖVP) and Vice-chancellor Susanne Riess-Passer of the Austrian Freedom Party (FPÖ). Another prominent figure in the spectacle was Jörg Haider. He continued to be “Landeshauptmann” of the Austrian province Carinthia. The rise of a far-right party headed by a politician who encourages xenophobic and nationalist politics seemed to constitute a threat to the whole European community in 2000. As a response, the 14 European member states imposed diplomatic sanctions on Austria on a bilateral level, but ended the measure after six months. The sanctions consisted of keeping diplomatic relations to a technical level and no extracurricular meetings with Austrian officials. In addition, Austrians running for positions in international organizations were not supported by fellow European countries.

Why was the situation perceived as a major threat by the European countries in 2000? More so, since right-wing populism today has evolved as a mainstream global phenomenon over the last two decades. The topic is of significant interest and worth examining firstly, given the current situation and circumstances in Europe and the world. The European Union, the United States as well as Israel see a rise in electoral support for far-right parties. The United States only recently inaugurated a populist President. Austria on the other hand closely prevented a President nominated by the Austrian Freedom Party in 2016. In addition, regional success of the Front National in France, the Afd “Alternative für Deutschland” in Germany or the FPÖ in Austria dominated media discourses during the last year. In combination with the current refugee crisis and the population’s frustration with establishment parties, the political situation in 2016/2017 widely shows parallels to the political landscape in the late 1990s. Austria’s politics are, however, certainly not Europe’s (only) problem in 2017.

This thesis attempts to explain why the inclusion of the FPÖ in the Austrian government caused such an upheaval in the European community. The major aim of the sanction was to pressure Austria to dissolve its government. By the end of the sanction measures this goal could not be achieved. What, however, were the reasons and driving forces of the diplomatic sanctions imposed on Austria in 2000? It will be examined, whether these intentions, besides the aim of forcing the ÖVP-FPÖ government to resign, could be met. Furthermore, not only the European member states responded to the new government but also the international community. The United States sent their Ambassador home for consultation. The Israeli Ambassador in Vienna, on the other hand was withdrawn immediately from his post.

Furthermore, the participation of the FPÖ in the Austrian government drew the attention on the issue of members within the European Union that do not play along established and agreed upon rules. How should and can the European Union respond when a member state threatens one of the core principles of the Union laid down in Article 2 Treaty on European Union (TEU)? Sanctions and isolation are one possible remedy. What are the implications of this policy as means to force a member to change a specific behaviour? After all it was only the Austrian ÖVP-FPÖ government in 2000 that made the EU realize that situations can occur where Member States may move backwards from liberal to illiberal democracies.

Two hypotheses underlie the thesis:

H1: The diplomatic sanctions imposed on Austria in 2000 backfired and failed their goal to prevent a rise of the far right.

H2: Sanctions as a policy measure to discipline European Member States are not expedient. Therefore, the European Union refrained from using this policy option on a European level so far.

Approach and Outline

This master thesis will combine international history, political science and European law and will analyse the stated research questions from this interdisciplinary point of view. To answer the research questions underlying this master thesis, this work is organized in three main chapters and a concluding section on the findings. Before going into the main argument, this master thesis will proceed with a critical literature review on the sanction measures against Austria and the widely discussed issue of their usefulness and legitimacy.

Chapter one discusses where the FPÖ fit within the broader framework of right-wing populism in the 1990s. Emphasis will be put on the general debate on whether populists constitute a threat to democracy. To conclude, reasons why the FPÖ and Haider were perceived as a threat by the international community will be identified. This will be analysed by combining more recent scholarship on populism with research on the developments of the FPÖ during the 1990s under Jörg Haider.

In the second chapter, the reasons and driving forces behind the sanction measures of the EU 14 Member States will be critically discussed. This analysis focuses on the various levels of interest which contributed to the measures taken against the Austrian government. The so much stated protection of EU values as the main reason for the measures will be contrasted to other factors which influenced the European member states in their attitude towards the ÖVP-FPÖ coalition government. The value narrative used by the EU 14 to legitimize their actions will furthermore be contrasted with a lack of consent among the European member state of how far these values should be Europeanised. The implication of this ambiguous behaviour will be evaluated in chapter three.

Chapter three illustrates diplomatic sanction measures as a balancing game illustrating the fine line between the usefulness and the damaging nature of the measures. A discussion on the legal nature of the sanction measures will be combined with the issue of effectiveness of the policy. It will be analysed in how far the preliminary driving forces could be accomplished. This master thesis will conclude with a discussion of the findings and will give an outlook on the current

debate on the phenomenon of populism within the European Union. What are the implications of the Austria crisis in 2000 on European responses towards Member States that might threaten European principles?

Literature Review

The issue of the sanction measures taken against Austria in the year 2000 have been widely discussed among scholars. Many academics and experts analysed the impact and nature of the measures taken against the Austrian government, shortly after they were implemented. But also, ten years after the Austrian crisis in 2000, scholars engaged in questions on the legitimacy and usefulness of the measures. Broadly speaking, two major approaches to the sanction measures can be identified. There is broad literature on the reasons for and the effectiveness of the sanction measures. Scholars have also focused their evaluations on the legal nature and legitimacy of the sanction measures.

Nagorski (2000)¹ and Lanier (2000)² critically review the effects of the sanction measures shortly after the measures were suspended in September 2000. Nagorski (2000) outlines the EU's 14 policy towards Austria's government as an oversimplification of the origins of the political crisis in Austria. He addresses the internal aspect, arguing that the sanctions as such cannot get at the roots of the problem. If Austria does not manage to get at the roots of its political crisis, the potential of far-right populism will grow. Lanier (2000) too, puts emphasis on the political system of Austria which struggled throughout the 1990s and led to the rise of a party rooted in a fascist movement, led by Jörg Haider since 1986. He states, the FPÖ's background and Jörg Haider's controversial statements on the Nazi Regime were main reasons for sanctions.

Two years after the sanctions were lifted, Gehler (2002)³ comes to the conclusion that the sanctions imposed on Austria in 2000 were in general decided too hastily. The consequences of such a policy against a member state were not thought through. One of the implications he discusses is that a rise of the far-right in other European countries could not be prevented, not least, given Berlusconi's triumph in Italy in 2001. He argues that a lack of cohesion among the 14 Member States

1. Andrew Nagorski, "The Politics of Guilt: Austria's Bigot, Europe's Burden," *Foreign Affairs* 73, no. 3 May-June, 2000, 18-22.

2. Gunther Lanier, "Populist Fascism in Austria," *Economic and Political Weekly* 35, no. 11 (March 2000): 880-890.

3. Michael Gehler, "'Preventive Hammer Blow' or Boomerang? The EU 'Sanction' Measures against Austria 2000," in *Austria in the European Union*, ed. Günter Bischof (New Brunswick: Transaction Publ., 2002), 180-222.

towards the measures is another indicator for the failure of the policy. Markovits (2002)⁴ however, portrays Jörg Haider's retreat to regional politics in Carinthia as a major success of the sanction measures. From his point of view, this would not have been the case without the political pressure of the EU 14.

Ten years later Frank (2010)⁵ builds on Markovits' argument that the sanctions measures were a success as they forced Jörg Haider to retreat from national politics. Frank (2010) published his scholarly work in a book together with other Austrian scholars (Strauß and Ströhle (2010))⁶, who discuss that the sanctions had a positive impact. Above all, they were a trigger for Austria and other European States to reflect on their political way forward. The scholars, however, widely agree that the way the sanctions were enforced and withdrawn only after six months, was too hasty. This contributed to a negative perception by the broad Austrian public. Quite contrary to Markovits (2002) and Frank (2010), Luther (2010)⁷ reflects on the consequences of the sanction in 2000 as a policy that produced more smoke than fire and ended unspectacularly after six months. Despite his unemotional approach towards the sanctions in 2002, he argues that the sanctions contributed to an increase in Austrian national sentiment, at least in parts of the society.

Happold (2000)⁸, Leconte (2005)⁹ and Serini (2009)¹⁰ focus more on the legal nature and the legitimization of the sanctions. Happold discusses the different steps that were taken until the enforcement of the sanctions. He comes to the conclusion that

4. Andrei S. Markovits, "Austrian Exceptionalism: Haider, the European Union, the Austrian Past and Present," in *The Haider phenomenon in Austria*, ed. Ruth Wodak and Anton Pelinka (New Brunswick: Transaction Publishers, 2002), 95-120.

5. Michael Frank, "Raureif: Die Konfrontation der EU mit Österreichs Regierung im Jahr 2000 war ein bis heute verleugneter Erfolg," in *Sanktionen: 10 Jahre danach: Die Maßnahmen der Länder der Europäischen Union gegen die österreichische Regierung im Jahr 2000*, ed. Martin Strauß and Karl-Heinz Ströhle (Innsbruck: Studienverlag, 2010), 25-32.

6. Martin Strauß and Karl-Heinz Ströhle, *Sanktionen : 10 Jahre danach: die Maßnahmen der Länder der Europäischen Union gegen die österreichische Regierung im Jahr 2000* (Innsbruck: Studienverlag, 2010).

7. Kurt Richard Luther, "Governing with Right-Wing Populists and Managing the Consequences: Schüssel and the FPÖ", in *The Schüssel Era in Austria*, ed. by Günter Bischof and Fritz Plasser (University of New Orleans Press: New Orleans, 2010), 79-104.

8. Matthew Happold, "Fourteen against One: The EU Member States' Response to Freedom Party Participation in the Austrian Government," *The International and Comparative Law Quarterly* 49, no. 4 (October 2000): 953-963.

9. Cécile Leconte, "The Fragility of the EU as a "Community of Values": Lessons from the Haider Affair," *West European Politics* 28, no. 3 (2005): 620-649.

10. Katharina Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip* (Berlin: Duncker & Humboldt GmbH, 2009).

policy options on the European level were discussed but the legal framework only allowed for measures on a bilateral level. From his point of view the sanctions were neither illegal nor was there an obligation to act against Austria. Leconte (2005) also emphasize the lack of a European legal framework suitable for this situation. The scholars also discuss the sanction measures that were taken on a bilateral level as a state of powerlessness of the EU to react accordingly, when a member state threatens one of the European core principles. For Leconte (2005) this powerlessness remains due a lack of agreement among European member states on defining thresholds when the prevention mechanism under Article 7 (TEU) is applicable.

Almost ten years after the sanctions in 2000 Serini (2009) re-evaluates the legal nature of the sanction measures against the Austrian government. The measures are assessed from a European law and from an international law perspective. She concludes that there was no European legal basis for the actions. She argues that the measures reached beyond the exertion of political pressure on Austria. Thus, the lawfulness of the sanctions can also under international law not be fully confirmed.

During the sanctions and shortly after the sanction measures, the Austrian case was also a prominent topic in national and international media such as the "Kronenzeitung", "Die Presse" or the "The Guardian" abroad. Among national media the debate shifted from outrage about the inclusion of the FPÖ to outrage about the actions of the 14 European Member States against Austria. It can be observed in the media how the debate shifted from a preliminary positive perception to a negative attitude towards the actions taken by the 14 Member States. On July 27, 2000 Olav Willadsen, expresses this negative transition in a the newspaper "Die Presse" article titles "Die bilateralen Österreich-Sanktionen und die Realität, Die Sanktionen sind nicht bilateral, sondern tatsächlich eine EU-Aktion und sie sind rechtswidrig" and referred to unlawfulness of the action. At the beginning of the sanctions in February "Die Presse" titled "Österreich steht nach wie vor im internationael Kreuzfeuer" (Austria is still matter of international crossfire), signalling understanding for the EU's

behaviour. This shift in perception of the sanctions has also been reflected on by many scholars such as Göllner (2009)¹¹ and Kopeinig and Kotanko (2000)¹².

11. Sigfried Göllner, *Die politischen Diskurse zu "Entnazifizierung", "Causa Waldheim" und "EU-Sanktionen": Opfernarrative und Geschichtsbilder in Nationalratsdebatten*, (Hamburg: Dr. Kovac, 2009).

12. Margaretha Kopeinig and Christoph Kotanko, *Eine Europäische Affäre*, (Wien: Czernin Verlag, 2000).

1. Populism a Threat to Democracy?

When in 2000 Wolfgang Schüssel decided to form a coalition government with the FPÖ, Europe was shocked. Even before the coalition negotiations were settled, European Heads of State communicated their concern and threatened Austria with sanction measures, if the FPÖ would be allowed as a coalition partner in the Austrian government. When the Austrian far right party was elected into government, Austria from one day to another became Europe's problem child for allowing this to happen. In a word, when the FPÖ was part of the coalition government in Austria, it was a scandal. Today the rise of right wing parties in established European democracies has become the rule rather than an exception. In Europe Jörg Haider is often portrayed as the politician who made right-wing populism "salonfähig" which means socially acceptable. His political era of influence is thus referred to as the era when right-wing populism became "mainstream". Hockenos (1995) describes Haider as a role model for many far-right movements in Europe¹³.

What, however, is right-wing populism? Why does populism emerge? Why do people worry about the emergence of populism? In Western established democracies, right-wing populism is the evil that aims to destroy democratic values. Müller (2016) argues that populism only emerges in representative systems. The emergence of populism is only the consequence of democratic shortcomings in societies. Populists give those parts of the population a voice, who feel underrepresented by their democratic elected representatives¹⁴. Therefore, wherever populists find fertile soil the major issue is to look at the roots of the reasons why people support these parties.

In regards of the growing success of the FPÖ during the 1990s, the question is why the European countries were so concerned about this development. The continuous influence of Jörg Haider on the Austrian political landscape was a new phenomenon in post-war, central Europe that challenged the achieved political system of stability. But the FPÖ did not only challenge the establishment above all, it confused European actors. The meaning of a neo-right-wing wave was not yet clear and

13. Paul Hockenos, "Jörg Haider: Austria's Far Right Wunderkind," *World Policy Journal* 12, no. 3 (Fall 1995): 75-80.

14. Jan-Werner Müller, *What is Populism?* (Pennsylvania: Pennsylvania Press, 2016), 90-100.

defined. The phenomenon could not only be observed in Austria but also among other European countries such as France, the Netherlands and Italy. In Italy, the far-right National Alliance was even in the government for some time in 1994¹⁵. Müller (2016) concludes that populism damages democracies even though these parties were elected through democratic elections. Populism becomes a danger to democracy when constitutional changes which limit democratic values are made by populists once they are in power¹⁶. Victor Orban and his Fidesz party as well as the Turkish President Recip Erdogan are political examples where such transformations can be observed. Was there the danger that the FPÖ was aiming at undermining democratic values?

1.1. The Concept of Populism

Just like the term “democracy”, is not easy to define, so is there not one concrete definition of the term “populism”. From a very general point of view in all poll-driven democracies politicians try to convince the people to vote for them. Of course, they will tell their story in a manner most of the people can understand their story. Does the sensitivity of politicians towards what their people feel and think already make them populists¹⁷?

Building on what has just been shown, one common argument is that populism puts the will of the people above anything else and thus legitimatises political positions and actions through the people via direct contact with the popular mass. This argument builds on the origin of the word “populism” which comes from the Latin word “populous” and means the people. This would imply that populism is strongly related to democracy and would show it in its most extreme form of democracy which is direct democracy¹⁸. Switzerland as a progressive European democracy has a long tradition of direct democracy. When we narrow down populism as a strategy that

15. Nagorski, “The Politics of Guilt: Austria's Bigot, Europe's Burden.”

16. Müller, *What is Populism?*, 49-60.

17. Ibid. 2-10.

18. Edward Shils, *The Torment of Secrecy: The Background and Consequences of American Security Policies* (London: Heinemann, 1956), 104.

prioritizes direct contact between the population and the leading elite and denies the need for intermediate bodies, populism does not sound too bad¹⁹.

But populism also refers to politicians whose aim is to destroy the consensus established among the elites. This attitude is shown amongst other things in the anti-establishment rhetoric populists tend to use. Müller (2016) discusses that being critical is a necessity but not sufficient condition to define populism. Nonetheless, criticizing the status quo is a genuine feature in contemporary populism. An anti-establishment rhetoric is often accompanied with an anti-foreigner sentiments and appeals to people through fear or by provoking feelings of anger, frustration and disappointment. Frequently “their people” is the ordinary folk, the petty bourgeoisie. To sum up, populists look up to a specific class of people who feels abandoned by the politicians governing their affairs at the moment²⁰.

Furthermore, Müller (2016) discusses populism as the claim of being “the only one for the people”. In this regard populist politicians like to devalue their political opponents as being corrupt and elitist-driven²¹. Populism can be defined as an ideology, but lacks one clear and cohesive form. The analysis above has shown that being the voice of the ordinary people and being anti-elite are two essential ingredients for contemporary populism. Mudde (2007) defines populism “as an ideology that considers society to be ultimately separated into two homogenous and antagonistic groups, “the pure people” versus “the corrupt elite”. Populists argue that politics should be an expression of the *volonté general* of the people.²²” The definition offered by Mudde (2007) puts in a nutshell what the basis for populism constitutes. Both ingredients are of importance concerning the phenomenon of the rise of right wing parties in Europe, whether Le Pen’s Front National in France or Haider’s FPÖ in Austria.

Does populism constitute a threat to liberal democracies which represent values such as the freedom of speech and media and serve as strong advocates for human

19. Anthony Todorov, “National Populism Versus Democracy,” *Critique & Humanism* 33, no. 1 (2007):81-94.

20. Müller, *What is Populism?*, 3-11.

21. Ibid.

22. Cas Mudde and Cristóbal Rovira Kaltwasser, *Populist Radical Right Parties in Europe* (Cambridge: Cambridge University Press 2007), 541-563.

rights? Given what we have learnt above on what defines populism, this chapter seeks to discuss when and to what extent contemporary populism may constitute a threat to liberal democracy. Mudde and Kaltwassser (2013) describe populism as a threat and corrective at the same time. Politics that became too distant from its people will be corrected by the emergence of populism²³. The perception that populism puts liberal democracies constantly at risk can also encourage democracies to learn from the mistakes of the past and thus improve their performance in the future. This, can only happen when one becomes aware of the shortcomings of populist movements and cuts off what nourishes them.²⁴

As proven in the case of Austria's coalition government including the FPÖ and the ÖVP in 2000, bad policy outcomes discredit populist policy makers. A common observation is that populists, if they function as opposition parties, tend to refer to themselves as the politicians for the people. Once in power, however, it turns out that these promises to the people cannot be kept. Müller (2016) argues that the lack of quality and long-term consideration of their policy actions, which were intended to be for "the people" result in undesired outcomes²⁵. If so, populism would not threaten democratic institutions given. It will function as a self-corrective like Mudde and Kaltwasser (2013) discuss it. Once the "ordinary people" have learnt that the populists who promised to step up for them cannot keep their promises, they will lose credibility and people will change their voting preferences.

The danger of populist movements, however, lies in re-mobilizing nationalist and protectionist sentiments. No matter if it is Donald Trump in the US, Marie Le Pen in France or Boris Johnson in the UK, they all try to stimulate national sentiments among their populations. The issue about such a retreat towards nationalism is, that it is based on blaming and distrusting a foreign community, may it be the European Union or one single country. This foreign community is then used to serve as a scapegoat²⁶. A unique characteristic of a populist is that they create suspicion towards anyone who is not from his tribe. Lukacs (2005) defines exactly this tribal connotation as dangerous for liberal democracies. Hence, it is the anti-liberal and

23. Mudde and Kaltwasser, *Populism in Europe and the Americas: Threat or Corrective for Democracy?*.

24. Müller, *What is Populism?*, 11.

25. Ibid. 13.

26. Todorov, *National Populism Versus Democracy*, 92.

right-nationalist ideology of populist parties or movements which bear the greatest danger²⁷.

According to Müller (2016) the logic behind populism in the 21st century is, that populists propagate a unique image of "the people" and the others. In this rhetoric "the people" are the hardworking, the pure people, those who must stand up against the corrupt elite and against the lowest in society who are the free riders living from what "the people" earned²⁸. Populists tend to present themselves as the one, true voice for "the people". They are convinced that they know the collectively-willed policy answer. This is the only correct answer and therefore no debate is needed²⁹. Consequently, this way of thinking makes them the only legitimate representation of "the people" no matter what election results say. A loss in an election is never their fault but the fault of the others. Also, populists like the argument of the "silent majority" which says that populists are not in power yet, because the majority of the people does not speak up, yet³⁰. The attraction about populism today is that it makes people believe that "the whole" can rule and not only the majority as it is the case in a liberal democracy. Subsequently, all actions of the populist government in its extreme form are already legitimized by "the people" and must not be questioned³¹. This argumentation is reminiscent of that used by authoritarian regimes, and sounds like a dangerous development.

The picture on populism also changed over time. In the 1950s populism was described as a helpless way to express anger and anxieties people had in the present. Many could not cope with the speed and change of modernization. In the US and in Russia populism emerged as a phenomenon of the 20th century. Populism was expressed in the revolt of the agrarians, peasants and those who perceived themselves as economically worse off than others³². These historical backgrounds tell us that populism emerges when a group of people is dissatisfied with the current situation. To conclude, populism is always a sign that something is going wrong.

27. John Lukacs, *Democracy and Populism: Fear and Hatred* (Yale: Yale University Press, 2006).

28. Müller, *What is Populism?*, 23-27

29. Ibid.

30. Ibid.

31. Ibid. 77.

32. Seymour Martin Lipset, *The politics of unreason : right-wing extremism in America* (London: Heinemann, 1971).

1.2. The Austrian Freedom Party and Jörg Haider - Where does it fit?

According to Müller (2016) populism damages democracies through the re-mobilization of nationalist and protectionist sentiments. Tendencies towards authoritarianism covered by an image that the doing of populism is for the best of the people is dangerous. The two most important ingredients for the concept is a democracy where people start developing anger and dissatisfaction with the status-quo and a charismatic leadership which knows how to mobilize the “angry” people. With this in mind, the extent of populist features of the FPÖ in the 1990s and Jörg Haider will be analysed.

1.1.1. Circumstances that led to the Rise of the Freedom Party

The first essential ingredient for populism to flourish is widespread discontent among the population that may lead to anger. Therefore, we need to ask the question what went wrong in Austria in the 1990s? Roots of the FPÖ's increasing influence under Haider can be found in the growing political vacuum that existed in Europe during the 1990s³³. Haider knew how to leverage people's discontents with the political establishment in Austria. Post-war Europe was marked by social democratic politics around the centre. In Austria, the social democracy evolved around the Socialist Party (SPÖ) and the People's Party (ÖVP) which governed in the form of a grand coalition from 1945 to 1966 and then again from 1986 to 1999³⁴. The division of power between the two major parties is a consequence of the experiences of World War II. Post-war politics were aimed at creating strong and stable democracies which do not allow for authoritarian regimes to rise again. A major result was the division of power, a system of checks and balances and the empowerment of unelected institutions such as the constitutional courts to prevent the re-emergence of totalitarian regimes.

Apart from the tradition of the grand coalitions, the social partnership is one of the particularities of Austrian democracy. The model of social partnership was invented in order to prevent any form of social class war that could arise. Furthermore, the so-

33. Hockenos, “Jörg Haider: Austria's Far Right Wunderkind.”

34. Nagorski, “The Politics of Guilt: Austria's Bigot, Europe's Burden.”

called "Proporzsystem" was introduced which guaranteed that posts in state, Para-state institutions and companies as well as contractual engagements were equally divided between the SPÖ and the ÖVP. This constituted a model that was at the time perceived as a success story since Austria rapidly achieved social peace and stability after the war and was often referred to as the "island of the blessed"³⁵.

The downside of this political mentality is that it makes reforms difficult and results in standstill³⁶. Disillusionment with the political establishment started to grow from the 1970s onwards³⁷. Finally, during the 1990s the political pattern started to break. In Austria, particularly the two major parties, the ÖVP and the SPÖ found themselves in a crisis which was not least shown in a decrease of votes in elections. In the mid-1990s the FPÖ overtook the SPÖ in Vorarlberg and saw a surge in Vienna and in Carinthia. The trend for populist parties, however, could not only be observed in Austria but also in France with the Front National winning more votes as well as right wing parties in Belgium, France, Italy, Germany and Scandinavian countries too³⁸.

Another controversial issue was Austria's entry into the European Union. The ÖVP was the main driver of the European integration project. They promised the population a better economic situation, once Austria would become a member of the European Union. In the years after Austria became a member, however, the economic situation widely deteriorated. By the end of 1997 unemployment has risen tremendously. Furthermore, Austria's aim to also become a member of the Monetary Union forced the SPÖ and the ÖVP to take austerity measures. Consequently, the Austrian economy suffered³⁹. These developments built a solid basis for the emergence of a populist like Haider, who knew how to leverage people's anger and dissatisfaction with the circumstances.

35. Lanier, "Populist Fascism in Austria."

36. Hockenos, "Jörg Haider: Austria's Far Right Wunderkind."

37. Müller, *What is Populism?*, 96-97.

38. Hockenos, "Jörg Haider: Austria's Far Right Wunderkind."

39. Brigitte Bailer-Galanda and Wolfgang Neugebauer, *Haider und die Freiheitlichen in Österreich* (Berlin: Elefant Press, 1997): 165.

1.1.2. The Emergence of the FPÖ under Haider - 1986-2000

The second essential characteristic for populism is charismatic leadership, a characteristic Jörg Haider certainly had. Hockenos (1995) portrays Haider as an opportunist with charisma and a flexible attitude⁴⁰. Haider's most important goal was to come into power and become the Chancellor of Austria⁴¹. In order to achieve this goal, he would change his attitudes and appearances accordingly. Like a chameleon, Haider perfectly adapted the content and performance of his speeches to his audiences. In his "political" home province Carinthia he was more radical in his ideas and statements compared to his rather liberal performances in the National Assembly in Vienna. His perfect adoption went as far as choosing the right clothing for the different political situations⁴². When in 1986 Jörg Haider was elected Head of the FPÖ this game of ideological disguise was continued in the party's multiple changes of programme.

As Haider took over as Head of the FPÖ the party first started to move towards an authoritarian model party with growing radical right-wing elements. He created a system within the party that was built on relationships of gratitude and dependencies. This system allowed him to consequently exclude and cut out party members and functionaries that did not suit him. With this policy, he did not even refrain from "firing" close friends and personalities that pathed his way for a political career at the FPÖ. These people included the former Secretary of State Mario Ferrari-Brunnenfeld who called Haider to the FPÖ in Carinthia where Haider's career as a politician first became serious. This system also allowed him to appoint whomever he wanted for positions in his party and even to restructure the "Bezirksorganisation", the administrative structure in Carinthia. Soon the term "Haiderisierung" was created which reflects his strategy aimed at increasing his influence in all areas. As a result of his internal party politics, nobody dared to speak up against him out of fear to lose his job. Bailer-Galanda and Neugebauer (1997) argue that these practices were indicators of totalitarianism within the party⁴³.

40. Hockenos, "Jörg Haider: Austria's Far Right Wunderkind."

41. Bailer-Galanda and Neugebauer, *Haider und die Freiheitlichen in Österreich*, 34-47.

42. Ibid.

43. Ibid.

Under Steger, Haider's predecessor as Chief of the party, nationalism was less of an issue and liberalism an important element in the party programme. Until the mid-1990s right-wing extremism and a German national ideology became more and more part of the content of the FPÖ. Right-wing extremists got mandates and functions and contacts with other right-wing extremist groups became frequent. Critics argue that in this period the FPÖ integrated traditional right-wing extremism in their party that only militant neo-Nazis remained outside the spectrum⁴⁴. These developments led consequently to the secession of the Liberal Forum from the FPÖ. Radicalisation and isolation in combination with a switch from being pro-EU to turning anti-EU and an anti-foreigner initiative animated a group of "liberals" in the FPÖ to take a different path in 1993.

Being anti-establishment and against the party-system in general, Haider fulfills Müllers argument that populism aims at undermining pluralism while seeing themselves as the only legitimate political option⁴⁵. With this in mind, Haider wanted to get rid of the traditional party structure of the FPÖ based on functionaries and party committees. He thus initiated a movement called "Die Freiheitliche Bewegung 1998" short F-Movement⁴⁶. Geert Wilders also wanted to create his PVV party as a foundation but failed with his intentions⁴⁷. The preference for simple and direct party structures is another element that is genuine for populism according to Müller (2016)⁴⁸. Haider expected that his electorate would officially join the movement as "Bündnisbürger" and officially declare their ideological support.

This, however, was not the case and the movement did not succeed. A major revelation of this unsuccessful project was that the numbers voting for the FPÖ widely exceeded the numbers among the voters who believed in its ideology. Most of the electorate was protest voters. Their support for the FPÖ was deeply rooted in the crisis of the Austrian establishment parties and did not reflect a pro-Nazi disposition. Those who agreed with the ideology no more than 5-10 %. Positive side effects of decreasing the complexity of the party structure were enormous financial savings⁴⁹.

44. Ibid.

45. Müller, *What is Populism?*.

46. Bailer-Galanda and Neugebauer, *Haider und die Freiheitlichen in Österreich*, 42.

47. Müller, *What is Populism?*, 32-37.

48. Ibid.

49. Bailer-Galanda and Neugebauer, *Haider und die Freiheitlichen in Österreich*, 42-47.

In the mid-90s Haider aimed at a normalization of radical positions with the clear intention to broaden the electorate. Haider realised that the radical course of his party contributed to political isolation in Austria and international condemnation. He therefore, changed to more moderate politics. The German National ideology was put aside and instead focused on an "Austria first" approach⁵⁰. He managed to transform the image from an old and backward-looking Nazi party to a mainstream party presenting its voters with a modernized far-right ideology. Nationalism, criticism of parliamentary democracies and distrust in the establishment constituted integral parts of the FPÖ's party program at the centre of the "new" FPÖ ideology⁵¹. This clearly constituted an important contributor to the FPÖ's success at the elections of 1999. Bailer-Galanda and Neugebauer (1997) argue that this transformation was only camouflage and that the ideological conviction of the party did not change⁵².

In addition to his flexible and opportunistic politics Haider situated himself as the voice of the masses, of the little man and of the anti-elite, sharing and understanding their concerns. Haider perfectly understood how to play this role⁵³. Following Müller's argument populist leaders are not necessarily like the people as they claim to be. Often these people are the opposite. US President Trump for instance certainly has not experienced the life of the "ordinary people". Jörg Haider on the other side campaigned to be like the people but in fact has been a part of the political elite for his whole career. In 1896 Haider's so called "Wahlonkel", uncle by choice, bequeathed Haider an estate as a present. Haider became a land baron and one of the wealthiest politicians. The land generated annual revenues but the taxes paid were wisely decreased to a minimum. Also, his standard of living was far beyond moderate including a house in Carinthia, a Penthouse in Vienna and a sports car from Porsche. To sum up, he lived exactly the life he was blaming and shaming the elite for. At the same time, the image he gave his people was the picture of Jörg Haider at events on the countryside, at country and fire brigade festivals and other

50. Ibid.

51. Hockenos, "Jörg Haider: Austria's Far Right Wunderkind."

52. Bailer-Galanda and Neugebauer, *Haider und die Freiheitlichen in Österreich*, 47.

53. Lanier, "Populist Fascism in Austria."

folklore events. With the image of being a down-to-earth politician he perfectly distracted people from his real personality⁵⁴.

The analysis of Haider and the FPÖ leads to the conclusion that Haider can be classified as a populist. He fulfilled the criteria of charismatic leadership, modelling the party structure to a structure that was suitable to him and created a feeling of we “the people” and “the others”. The way he continuously transformed the party into an organisation where he had control and other party members depended on him, reflects features of an authoritarian leadership undermining a democratic dynamic within the party. Simple party structures and quick decision making were also at the roots of his idea. He intended to transform the party into a movement based on membership through becoming a “Bündnisbürger”.

The idea, however, collapsed due to a lack of ideological support among his electorate. As Haider became aware of the fact that radicalisation and isolation will not bring him the power, he normalized his positions. He successfully made use of sensitive points among the population and picked the voters up right there. The new approach was to catch voters from all parties and increase the electorate. The motto was to make the FPÖ “mainstream”. Summing up, the image of the party in the 1990s switched from a traditional right-wing perception based on the German National ideology to a modern catch all party mentality.

1.3. Why was the FPÖ and Haider perceived as a Threat by the International Community?

So far, we discussed whether Haider was a populist but much of the debate in the 1990s was about what Haider said. The statements he made revealed a right-wing extremist and National Socialist attitude of Haider that was unacceptable for the international community. International politicians as well as media clearly portrayed Haider as a right-wing extremist and often even as a "Nazi". Developments of the FPÖ have been condemned already during Austria's accession negotiations. In

54. Bailer-Galanda and Neugebauer, *Haider und die Freiheitlichen in Österreich*, 30-31.

response to Haider's statements sympathizing with National Socialism, the European Parliament stated on July 3, 1991:

"In the conviction that it is the responsibility of all democrats to stand unified against those who try to rehabilitate dictators or totalitarian regimes, whether so-called left or right regimes, which brought millions of people suffering and death and which severely damaged the European civilisation in the nearest past....⁵⁵"

Racist and xenophobic tendencies were at the heart of discussion in the European Parliament at the time. The parties of Haider and Le Pen, among other, were indicated as racist parties which pursue sentiments of racism, xenophobia and anti-Semitism in the society. In a report from May 1996 the EP recommended the isolation and condemnation of these political leaders as the remedy to fight racism and anti-Semitism. I doubt that this was an effective strategy but caused rather the opposite. Concern about the rising influence of these political leaders was not only raised by the EP but by many European capitals⁵⁶.

The concerns were thus largely dominated by the experiences of the past. They were shocked and condemned Haider's rhetorical games with the past. From my point of view, the EU's concerns about Haider were a lot connected to the whole issue of "Vergangenheitsbewältigung" and taboo topics of the past Haider used for propaganda purposes. The analysis of the emergence of the FPÖ under Haider, nonetheless, indicates a high degree of unpredictability of his intentions. There was a clear pattern that he would do anything to achieve his goal of becoming Chancellor. Bail-Galanda and Neugebauer (1997) outline what the consequences of having a Chancellor Haider could have looked like. The intentions he had were aimed at restructuring the democratic institutions the way he thought them to be more suitable. This would thus confirm the danger populism bears according to Müller (2016). The threat perceived by the European Member States on the other hand was much more based on historical legacies.

55. Bailer-Galanda and Neugebauer, *Haider und die Freiheitlichen in Österreich*, 196-198.

56. Ibid.

Müller discusses that populism is a danger to democratic constitutions and to liberalism. We therefore, have to take the developments seriously. Seriously means on the one hand that populists should not be trusted. In this regard, the suspicious attitude of EU-wide and international officials throughout the 1990s was important. On the other side, seriously also refers to the issues populists raise and the positive response they therefore get from the voters. Dialogue should be sought so that the people who are in protest feel that their concerns are taken seriously. When a party is blamed and discredited for its success by the European and international community, the people voting for them are also discredited for their voting behaviour. In the case of the FPÖ the European actors merely associated the party with Nazi paroles, the inclusion of former Nazis in the party and the emergence of dangerous right-wing extremism. The circumstances, however, that led to the FPÖ's success in the 1990s were largely left aside in their assessment. Ergo wrong and unbalanced conclusions were drawn. I argue that the community focused first and foremost on Haider but forgot to tackle the roots of the circumstances that allowed his success. This debate, therefore, leads us back to the year 2000 when Austria was punished for including the FPÖ in its government.

2. Aims and Reasons for the Sanctions

In the Austrian case the sanctions by the EU 14, imposed on Austria for including the FPÖ in a coalition government, consisted of measures on the political and diplomatic level. In other words, any high-level contact with Austria was cut off. The broader aim of the sanction measures was to isolate and exclude Austria for allowing the FPÖ to enter the government. Jörg Haider, was the most important figure of distrust in this regard, although Haider was not even part of the government but remained "Landeshauptmann" of Carinthia. The legitimization of the sanction measures was based on the normative framework of the European Union including freedom, democracy, the respect of human rights, basic freedoms and the rule of law which are defined in Article 2 TEU. In fact, it was clear to most European countries that Austria was not in violation of any of these principles which is why the sanction mechanism of Article 7 TEU did not apply.

The European countries did not trust a political party whose past is related to the Nazi regime. In the past, some of the FPÖ's members either served in Hitler's army or were close to the regime. Above all Haider was the real thorn in the eye due to his various comments on the Nazi regime. His anti-immigration policy and comments such as the "Waffen SS" soldiers should be respected for their services during the war, contributed to his negative perception by European state officials. However, Haider did not become Vice Chancellor but remained "Landeshauptmann" of Carinthia. In how far did Jörg Haider constitute a threat to the European principles? Extreme parties existed before and were part of European governments. The French Communist Party for example was linked to Stalin in the past and played its role in the French government before the Austrian FPÖ was included in the coalition. The French Communist Party, however, was not seen as a threat and no measures were taken against it. What is different about the Austrian situation⁵⁷?

The Austrian case was above all declared on many occasion as a political statement by the EU 14. The FPÖ's participation in the government was to be condemned as

57. Charles Krauthammer, "Europe's Austria Hypocrisy," *The Washington Post*, 2002, accessed August 20, 2017, <http://www.washingtonpost.com/wp-srv/WPcap/2000-02/18/050r-021800-idx.html>.

such⁵⁸. The intentions behind the measures were rooted in different interests: First of all, they were a sign of tutelage and distrust towards the Austrian population for supporting someone who made statements of sympathy with the Hitler regime. Second, by inviting a far-right party in the government a taboo was broken and European states feared a domino effect of this trend. France, Belgium and Germany were the driving forces of sanctions in this matter. Third, the European Socialist parties pushed the sanction measures for their own political purposes. Furthermore, the sanctions were imposed bilaterally and did not constitute an EU measure. I therefore, argue that European principles were selectively politicized by member states to use them for their own political interests.

2.1. Historical Legacy of Tutelage and Distrust

Post-World War II Europe was marked by its totalitarian past and so were the political institutions at that time. European countries like Germany and Austria bore the biggest burden of Hitler and the horrors of World War II⁵⁹. However, many other European states, too, bore their share of the tragedies that happened during the Second World War. So, did Vichy France encourage the deportation of the Jewish population and Belgium and Denmark sympathised with Hitler's racial politics. Also, Sweden did benefit from the Aryanization of Jewish assets. Kopeinig and Kotanko (2000), thus, portray the measures taken against Austria's ÖVP-FPÖ coalition as a collective European and individual apology of the guilt of the past⁶⁰. Nonetheless, the experiences of World War II created especially for Austria two important legacies. Firstly, the experiences from the Second World War brought about a legacy of distrust in a people who once voted for totalitarian rulers and for parliaments who enabled Hitler to get to power⁶¹. Secondly, Austria's occupation by the allied forces after the end of the Second World War left a legacy of supervision and tutelage. Gehler (2002) argues that the situation in 2000 was not the first time post-war Austria was instructed by other powers what to do⁶².

58. Leconte, "The Fragility of the EU as a "Community of Values": Lessons from the Haider Affair."

59. Nagorski, "The Politics of Guilt: Austria's Bigot, Europe's Burden."

60. Kopeinig and Kotanko, *Eine Europäische Affäre*.

61. Müller, *What is Populism?*, 77ff.

62. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU "Sanction" Measures against Austria 2000."

2.1.1. Legacy of Distrust

The legacy of distrust was strongly reflected in the reluctance of European Heads of State regarding Austria's wish to join the European Community. Already in the early 1960s Austria began to approach negotiations to join the European Community but these were blocked by Italy in 1967. Reason for Italy's behaviour was the terror in South Tyrol and the fear of a greater Germany. Even in 1989 when Austria applied for membership to the Community neither the French President Francois Mitterrand nor the President of the European Commission Jacques Delors appreciated Austria's effort to join⁶³. Mistrust and doubts towards Austria was further deepened by various scandals about its past, Austria faced in the 1980s and 1990s. Only when Kurt Waldheim was elected President, Austria's "victim thesis" started to be questioned by international actors. While in presidential office it was revealed that Waldheim served as soldier and later officer in the "Deutsche Wehrmacht". In addition, Jörg Haider emerged during the 1980s and started to become a prominent figure in the Austrian political landscape⁶⁴.

In 1991 Austria's Chancellor Franz Vranitzky was the first Austrian politician who officially stated in the name of the government that Austria must take its moral responsibility for its actions in the past, including the good and the evil⁶⁵. This statement was an important message for the world and a step for Austria to deal with the past. However, when in 2000 a coalition government was formed together with the FPÖ Austria's image was again tainted. Above all, Haider defended the victim thesis and made comments of sympathy on the Hitler regime on various occasions, before and after the election of his party in 2000. This constituted an international provocation. On a reunion of SS veterans in 2000 Haider commemorated the soldiers. To make his point of the SPÖ-ÖVP's poor unemployment policy, he praised Hitler's employment regime. In general, anti-Semitic statements happened occasionally⁶⁶.

63. Ibid.

64. Göllner, *Die politischen Diskurse zu "Entnazifizierung", "Causa Waldheim" und "EU-Sanktionen": Opfernarrative und Geschichtsbilder in Nationalratsdebatten*.

65. Kate Connolly, "Haider embraces SS veterans," *The Guardian*, October 2, 2000, accessed August 20, 2017, <https://www.theguardian.com/world/2000/oct/02/austria.kateconnolly>.

66. Krauthammer, "Europe's Austria Hypocrisy."

Compared to the political turmoil the rise of Haider caused in Europe, the United States showed less interest in this matter, however, remained critical. This is in contrast to the "Waldheim affair" where the United States put Austria on a watch list. The European countries on the other hand publicly shamed Austria. For the United States, the difference was that Kurt Waldheim was engaged in the Second World War, whereas Jörg Haider only copied Nazi rhetoric, made anti-Semitic statements and favoured a strict anti-immigration policy. Obviously, the immediate threat of the FPÖ's politics, if there was one, was on the European States. They were afraid of a right-wing domino effect which will be discussed under 2.2⁶⁷. The European turmoil, however, can also be partly explained by old historical rivalries between European countries, in this situation first and foremost between France and Austria as well as France and Germany. Austria as a member state in the EU constitutes a cultural shift from a dominance of romance languages to Germanophone. The French did not welcome the idea of increasing the number of Germanophone people in the community by eight million.

Given this historical and political background there were concerns from the beginning among European political leaders that Austria had the potential to turn into an unreliable member state once admitted to the community. From the early beginning of the Austrian coalition talks the French President Jacques Chirac announced that an inclusion of Haider and the FPÖ in the government would have consequences for Austria. When the ÖVP-FPÖ coalition government was formed in early 2000, these threats became reality in form of political sanctions. Subsequently, Austria's President Thomas Klestil insisted that the coalition partners signed a preamble to their government programme where they ensure their commitment to European Union Membership and to European Principles. Nonetheless, the measures could not be averted⁶⁸.

67. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU "Sanction" Measures against Austria 2000," 208.

68. Luther, "Governing with Right-Wing Populists and Managing the Consequences: Schüssel and the FPÖ," 79-104.

2.1.2. Legacy of Tutelage

The second historical narrative concerns a status of foreign rule, Austria got used to. This is an argument which underlines the so called "Bevormundungsthese." To end the Second World War, the Allies decided to liberate Austria and make it independent. After the end of the war in 1945, Austria, however, remained dependent on the goodwill of the allied powers in economic, political and military terms. Only ten years later in 1955 Austria signed its State Treaty under the provision to become a neutral state. According to the "Bevormundungsthese" foreign supervision is an element that shaped Austria's political culture after 1945 and that also influenced the perception other countries had on Austria⁶⁹. This perception persisted even after Austria was permitted to the European Union in 1995.

Interestingly, this image was not only supported by other countries but it seems that Austrian politicians themselves carried this self-image. Austria at the time felt weak and small and due to a fear of exclusion, the country's representatives did not dare to defend their decisions properly. Before the FPÖ-ÖVP coalition government was formed in January 2000, the Austrian Chancellor Victor Klima publicly announced his concerns about the inclusion of the FPÖ in the government. President Thomas Klestil too, was concerned about Austria's image and tried to prevent the formation of the coalition. Klestil publicly announced that he would favour a SPÖ minority government and proclaimed his sympathy for the sanction measures once they had been announced⁷⁰. The question is whether ignoring the population's decision was the best way to handle this sensitive situation.

In respect to these historical narratives the sanction measures can be interpreted on the one side as a tool to communicate the doubts European countries had whether Austria could be trusted. The sanctions clearly showed that it was not welcomed that an Austrian politician made statements about Austria's role in WWII the way Haider made them. As it was the case in the Waldheim affair international criticism should make Austria understand that these views on its past were not accepted.

69. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU "Sanction" Measures against Austria 2000."

70. Anton Pelinka, "Österreich und Europa. Zur Isolierung eines Landes," *Europäische Rundschau* 28 (2000): 3-8.

On the other side, the sanctions can be seen as a measure of power demonstrated against a smaller and new member state of the European Union. The argument about tutelage is that on the one hand the "bigger" states in the European Union perceived it as their right to show Austria how to solve the issue. Neither the people nor the parliament were fully trusted and tutelage entitled the European countries to control them. This demonstration of power could also have served as a lesson for Eastern European states who sought to join the Union soon⁷¹. On the other hand, weak positions and the fear of exclusion also encouraged an internal image in Austria that supervision might be needed. In the period of coalition talks in Austria, France would already threaten Austria that it will have consequences if the FPÖ would be included in a government.

During this period, Austrian officials remained largely quiet. One explanation would be that the threats were not taken seriously. Another explanation could be linked to this legacy of tutelage. In contrast, Poland or Hungary today defend their position much stronger and do not let other member countries threaten them. Possibly the leverage of these countries in 2016/2017 is higher than Austria's situation in 2000. The European Union's disability to cope with the refugee crisis in 2015 for sure strengthened the position and developments of Hungary and Poland. Furthermore, in times of BREXIT a new possibility for member states to leave the Union has opened, as an alternative to compliance with EU policies, if they do not appreciate the Union's way forward. This decreases the EU's leverage on its member states.

2.2. Fear of a Right-Wing Domino Effect in Europe

The fear of a right-wing domino effect constituted another driving force for the isolation attempts of the 14 member states. At the same time once own political interests needed to be preserved. This fear was first and foremost shared by France and Belgium, where their own extreme parties were on the brink to succeed. The French President Jacques Chirac meant to exclude Jean-Marie Le Pen of the French "Front National" party. In Belgium, the secessionist Vlaams Blok was perceived as a threat. In the sanction discussion these two countries, therefore, soon became the

71. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU 'Sanction' Measures against Austria 2000."

driving forces of promoting measures against Austria⁷². The inclusion of the FPÖ was widely interpreted as a legitimization of the far-right in Europe. The measures can, thus, be interpreted also as an acknowledgement of the trend of right-wing populism and extremism in many European countries.⁷³ A right-wing wave needed to be prevented with view on the goal to preserve or strengthen once own power. To a certain extend the measures also indicated a political race between conservative and socialist parties.

The aim of France and Belgium was to prevent any form of coalition that involves a righteous movement. Talks about sanctions, thus, began before the ÖVP-FPÖ government was even sworn in. From the very beginning talks about sanctions were seen as a preventive initiative. The negotiating states were sure that threatening with sanctions would be sufficient to convince the ÖVP to refrain from a coalition with the FPÖ. Especially France and Belgium anticipated that threats are sufficient to prevent a ÖVP-FPÖ government which led to a lack of strategy forward once the government was sworn in. Furthermore, when the government was sworn in on February 4, 2000, no unity among the member states was achieved. Despite disunity the member states could not back down from their declared threats since this would have meant a loss of credibility⁷⁴.

Analysing the point of views of the different member states in more detail, it soon becomes clear that the measures were seen rather sceptical by many state officials. Spain for example was first for measures against Austria but soon sought for a way out. Other member states too started to advocate an end for the measures. In general, after the first weeks of euphoria in regards to the sanctions many states within the European Union but also outside the European Union raised doubts about the sanctions. But France and Belgium remained at the forefront as advocates of keeping the measures. Both countries feared that if they dropped the sanctions to soon, they would confirm Jörg Haider and the FPÖ in their doing. A suspension of the sanction measures was only planned when the profile of the FPÖ changed, but this did not happen.

72. Ibid.

73. Kopeinig and Kotanko, *Eine Europäische Affäre*, 19.

74. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU "Sanction" Measures against Austria 2000," 188.

To sum up, the general trend of rising right-wing populism in Europe could not be stopped by the sanctions. For the FPÖ the sanctions did not bring any changes. It could not be transformed from a right-wing populist fundamentalist opposition party into a responsible governing party. Nonetheless, governing itself led to a normalization and reality shock. Haider, however, gained popularity and turned from an internal to an international subject of interest⁷⁵. The inclusion of the FPÖ in the government can be seen as a starting point that turned right-wing populism into a mainstream movement, despite the harsh response by the EU 14. In Germany, the problem with Neo-Nazis increased, in Spain people developed strong anti-foreigner sentiments against Moroccans and in France racism, antisemitism and anti-foreigner attitudes also grew. In 2000 the Belgian Vlaams Blok got majorities in Antwerp and Mechelen and a tendency of completely isolating the Flemish right wingers grew. While anti-EU sentiments within the European populations grew, liberals and conservatives continued to propagate for the Union. Thus, the threat of a nationalist wave in Europe could not be restrained by the sanction measures⁷⁶.

In Austria, the SPÖ felt betrayed by the ÖVP for outmanoeuvring the SPÖ in the coalition negotiations and taking the chancellorship. In the elections, the SPÖ gained almost 30 % of the votes and was thus the electorally strongest party. They therefore, felt entitled to the chancellorship. Furthermore, Schüssel intended to increase the ÖVP's neo-liberal policy agenda but also the ÖVP's political power. To do so, as much influence over the Austrian partnership as possible needed to be gained. SPÖ partisans were therefore removed from state bureaucracy, privatized state enterprises and para-state organizations such as the Austrian Federal Railways System (ÖBB) or the Austrian Highways Agency (ASFINAG). The SPÖ expected that the sanction measures would undermine the legitimacy of the Austrian opposition parties and force them out of office⁷⁷.

75. Ibid.

76. Ibid.

77. Luther, "Governing with Right-Wing Populists and Managing the Consequences: Schüssel and the FPÖ."

The Socialist International, which constitutes the umbrella organization of the European socialist parties, stood by the Austrian SPÖ for solidarity⁷⁸. This solidarity was actively supported until end of May, beginning of June 2000. In the course of the year, however, euphoria among the Socialist International diminished. The Socialist International argued that when the measures were not helpful in the situation there should be the flexibility to adjust them⁷⁹. The ÖVP on the other side did not get united support from the other Christian Democratic and Conservative parties in Europe. The Christian Democratic parties from Luxembourg, Belgium, France, Italy as well as Sapin were for a gesture against the ÖVP. Together with the ÖVP these parties formed the European Peoples Party in the European Parliament. Other centre-right parties within the European Peoples Party wanted to stand at the side of the ÖVP among them the UK Tories and the CDU/CSU of Germany. Summing up the Christian Democratic and Conservative parties lacked a moderate and united voice towards the ÖVP⁸⁰.

2.3. Politicizing EU Values

In Article 2 of the TEU the principles of "freedom, democracy, the respect of human rights, basic freedoms and the rule of law" are stated. By joining the European Union, the member states agreed to share and respect these principles. Emerging towards a community of values became one of the EU's distinctive features. The core idea behind this approach of normative homogeneity is deeper and harmonized European integration⁸¹. The challenge of such a Europeanisation of values, however, is to find an agreement that goes beyond the most basic understanding of these values including their exact meaning and the extent of the values which becomes widely debateable. In terms of human rights, there is an agreement on the most basic human rights. When it comes to more detailed questions, such as the issue of abortion on the other side, European countries have different points of view. Furthermore, nuances exist in the national understandings of what exactly comprises freedom of speech or a fair social system. In these matters, European states carry

78. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU "Sanction" Measures against Austria 2000."

79. Ibid.

80. Ibid.

81. Leconte, "The Fragility of the EU as a "Community of Values": Lessons from the Haider Affair."

their historical experiences and individual political culture and traditions which come upon the aim of the Europeanisation of values. A politicisation of values might, thus, contribute to more disintegrative than integrative tendencies within the EU⁸².

Against this background it becomes evident that it is a difficult task to determine rules and procedures of how and when to react when a member country threatens one of the EU core values laid out in Article 2. In 2000 there was no legal procedure in place of how and when to deal with a member country that challenges one of these principles. The Treaty of Amsterdam only laid out under Article 7 the basis for the EU "to intervene whenever democratic values are at risk of being violated within one of its Member States". A decision on the violation of fundamental EU values by a member state is to be taken by unanimity without the member state concerned participating in the vote⁸³. This was a rather reactive approach which did not define clear procedures when the EU should intervene. Also, it was not clear what "at risk of being violated" means since no thresholds for such an assessment were defined. In the case of Austria's crisis there was no common understanding of what defines right-extremism nor was there an agreement of how to deal with member countries which bring right-wing populists into their governments⁸⁴. Certainly, the ÖVP-FPÖ coalition as such did not violate fundamental EU values, which is why Article 7 could not be enforced⁸⁵.

Austria's situation in 2000 is, thus, deeply linked to the general discussion on how far "Europeanisation" should and can go. The process of establishing a government lies at the core of national sovereignty and remains within the competence of the member state. Generally speaking, however, political elites do not want their own domestic politics nor the individual party systems to be Europeanised. Leconte (2005), therefore, introduces the concept of selective Europeanisation. Selective Europeanisation refers to political elites who pledge for more integration in some policy areas but refrain from deeper integration in other areas.

82 Leconte, "The Fragility of the EU as a "Community of Values": Lessons from the Haider Affair," 629-646.

83. Ibid.

84. Ibid.

85. Ibid.

Austria in 2000 is an interesting case that illustrates a European power game over the community's value framework. European countries widely legitimized the sanctions by referring to the "sacred" European values that were at stake. One can argue that the EU's value framework was exploited by national political elites to Europeanise their individual political strategies. European values were instrumentalized for their own political purposes in order to increase the legitimacy of their political strategy at home⁸⁶. As there was only a limited legal basis for the EU 14 member states to impose the sanction as an EU measure, the sanctions were primarily pushed by some of the heads of states. In fact, France, Germany, Belgium and Spain were the driving forces behind the sanction measures. Their interest in Europeanising this affair could merely be found in domestic political reasons⁸⁷. The measures were agreed upon in a rather secrete and personalised diplomatic manner by circumventing the supranational element⁸⁸. In the end, the EU 14 imposed the sanctions individually but, nonetheless, based their argumentation on EU values and articles.

The danger of selectively using European values for political purposes to interfere in domestic polities lies in public upheaval and in a loss of credibility. Such a political behaviour brings about the perception that the European value framework is only used by the elite for their advantage and applied by them only on countries based on their size or seniority. The approach of selective Europeanisation, however, bears the danger to backfire and to serve those political players, the strategy was aimed to fight. One of the intentions of the sanction measures against Austria was to prevent a wave of right-wing populism among European countries. The rise of this phenomenon, however, could not be prevented. In general, the incoherent attitude towards the ÖVP-FPÖ coalition in Austria has largely been criticized as a failure in the end.⁸⁹

86. Ibid.

87. Ibid.

88. Ibid.

89. Ibid.

3. Diplomatic Sanction Measures - A Balancing Game

Some months after the sanctions started the 14 Heads of State decided to create an independent institution which will examine the political situation in Austria. The 14 Heads of State delegated this task to the President of the European Court of Human Rights who appointed three wise men to evaluate the sanctions. These three wise men were asked to evaluate the work of the Austrian government regarding its standpoint towards European values, in particular the rights of refugees, immigrants and minorities. The evaluation of the political nature of the FPÖ was also at the heart of this assessment⁹⁰. As of June 2000, all 14 countries agreed to the assessment.

In September, the report was concluded and the sanctions were suspended only six months after they were implemented⁹¹. In the report on the official end of the measures it was stated that the measures have proven as useful and can now be ended. The statement concluded that the legal situation in Austria in terms of refugee and immigration rights is not below the standards of the other member states nor is there a neglect of minority rights. The FPÖ indeed could be classified as a party with a xenophobic profile. Whereas statements of sympathy with the Nazi regime of some FPÖ functionaries were noted as worrying. However, the Austrian ministers appointed by the FPÖ could not be accused of such rhetoric. Jörg Haider remained the “black sheep” within the FPÖ framework. Against this background the wise men concluded that the FPÖ must remain under supervision⁹².

In the report of the wise men the suspension of the sanctions was based on the argumentation that the sanctions proved useful. But if they were sustained, they would be counterproductive⁹³. The usefulness of the sanctions, however, remains matter to discuss. Contrary, the hasty end of the sanction measures in September 2000 was widely interpreted as a failure of the measure. First, because the main aims of the sanctions were not achieved. Neither the coalition could be prevented in the first place, nor could the FPÖ be removed from its position as a coalition

90. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*, 141-145.

91. Kopeinig and Kotanko, *Eine Europäische Affäre*, 32-33.

92. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*: 141-145.

93. Ibid.

partner⁹⁴. According to Leconte (2005) the FPÖ did not even undergo any major changes of its profile which would have been one achievement the EU 14 would have liked to communicate as a success⁹⁵.

The two major questions this chapter intends to answer is to what extend the measures were effective and in how far sanctions were appropriate and necessary. These questions will be assessed from a law perspective as well as from a social-political perspective. This chapter also intends to look at the general logic behind sanction measures and their impact within a community.

3.1 The Usefulness of Sanctions

Sanctions are a powerful political statement but also a highly sensitive measure. The costs of introducing sanction measures may be low but the consequences of such a measure need to be thought through. In international politics sanctions can constitute diplomatic, economic or social restrictions. The concept of sanctions under international law does not underlie a fixed framework defining the scope of action. It rather includes measures taken by states that react on a breach of international law by another state⁹⁶. The overall objective of sanctions is to exert pressure on states disregarding certain rules and forcing the state to stop this unlawful behaviour. Common reasons for enforcing diplomatic sanctions in world politics are terrorism, proliferation or the wish for a regime change. Diplomatic sanctions may include the withdrawal of an ambassador from the target state, withholding the recognition of a regime or the refusal of high end meetings with officials of the target state to manifest that the behaviour of the state in question is not lawful⁹⁷.

Often, however, the measure brings about negative consequences such as diminished communication with the target state. Diminished ways of communication decrease the ability of political influence and reduce the ability to promote one's

94. Kopeinig and Kotanko, *Eine Europäische Affäre*, 34.

95. Leconte, "The Fragility of the EU as a "Community of Values": Lessons from the Haider Affair," 640-641.

96. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*: 162-163

97. Ibid.

interest. Generally, sanctions may provoke resistance on the side of the target state and thus miss their primary intention. The most difficult task in regards to diplomatic sanctions is the question of time and reengagement. The long-term and sometimes even the short-term impact of sanction measures is difficult to anticipate. As such determining an exit strategy, including reengagement with the formerly sanctioned state, is a challenging task⁹⁸. Generally, it is a political decision whether a state wants to engage diplomatically or politically with another state. According to international law no state has the right to diplomatic relations with another state. In other words, diplomatic and political relations are voluntarily⁹⁹. In this regard, the nature of the sanction can be identified as a deterrent and thus a lawful measure. As soon as sanctions stand in contradiction with other principles and laws, however, the lawfulness of the same needs to be examined.

Diplomatic engagement, however, may prove as a suitable tool, even with difficult states. The concept of diplomatic engagement stands in contrast to diplomatic sanctions. Diplomatic engagement implies communication as the essential tool to engage difficult states. Communication and high-end meetings among country representatives is necessary to build relationships, to increase influence and to promote one's interests in international politics and at the same time persuade the counterpart of your interests without the other party noticing¹⁰⁰. The various channels of formal and informal communication are the more so of crucial importance for the development of the European Union. Moreover, the political system on which the European Union is built relies on close cooperation between the European Member States. The informal and formal bilateral meetings are a necessary condition for decision-making as they constitute a form of exchanging views. By excluding one member from these channels of communication, it is not only for the worse of this member but does also hinder the European Institutions to work in their most efficient way¹⁰¹. For a certain amount of time a member has been in a disadvantaged position in terms of the exchange of information and views. This brings us back to the task of

98. Tara Maller, "Diplomacy Derailed: The Consequences of Diplomatic Sanctions," *The Washington Quarterly* 33, no. 3 (July, 2010): 61-79.

99. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*: 168.

100. Maller, "Diplomacy Derailed: The Consequences of Diplomatic Sanctions."

101. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*: 172-173.

reengagement once the sanction measures are suspended. It is, therefore, crucial for policymakers to recognize all the benefits of diplomacy and realize that diplomatic sanctions are a costly and risky strategy. Above all the consequences of non-communication and shaming of the target state can backfire on the actor(s) issuing the sanctions.

3.2. Scope of the Measures

In the case of the sanctions against Austria's government, the concrete measures by the 14 Member States were threefold. They included:

1. Keeping diplomatic relations to a technical level
2. Austrians running for positions in international organizations were not supported by fellow European countries.
3. No extracurricular meetings with Austrian officials on a political level as long as the FPÖ is part of the government.

The so-called "soft" measures were first and foremost directed against Austrian politicians and representatives at international organisations. Hummer (2006) discusses in detail the scope of the measures against Austria.¹⁰² The measures as such can be described as "soft" but the impact of the actions was "hard". Austria was not invited to any official ceremonies such as the opening ceremony of "Brussels, European City of Culture" or even at ceremonies in the own country as was the case at the opening ceremony of the "Anti-Racism Office" in Vienna. Furthermore, prestigious social events like the Viennese Opera Ball were boycotted. The resentment was also communicated through cancelling conferences and projects which included Austria. Resolutions were condemned. As the sanction measures were executed on a bilateral level, working relations with Austria on the EU level

102. Waldemar Hummer, „Behinderung der Mitwirkung Österreichs an der Willensbildung,“ in *10 Jahre EU-Mitgliedschaft Österreichs : Bilanz und Ausblick*, ed. Waldemar Hummer (Wien: Springer, 2006): 139-220.

technically maintained¹⁰³. Austrian Ambassadors in European capitals would only be received on a technical level.

Even on EU level, the European member states signified their disfavour via so called "unfriendly acts". "Unfriendly acts" were acts when officials came to meetings in Brussels to avoid greeting the Austrian representatives or when officials left meetings when an Austrian started his speech on the podium¹⁰⁴. This was also the case when Austria's Foreign Minister Benita Ferrero-Waldner held her speech as OSCE Chairperson in the Imperial Palace in Vienna. As soon as she started to speak, the French and the Belgian delegation left the conference room. A similar fate expected the FPÖ Minister for Social Affairs, Ms Sickl, at the EU council of ministers in Lisbon¹⁰⁵. The "harshness" of the measures that were imposed on Austria varied from country to country. Some voices even called for economic restrictions such as a boycott of goods and services which did not happen. Third countries including Israel, Canada, Costa Rica, the U.S and Argentina, initially, supported the diplomatic boycott initiated by the EU 14. Israel withdrew their Ambassador from Vienna and the US called their Ambassador at least back for consultations¹⁰⁶.

Furthermore, it was not the intention of the sanction measures to harm the average Austrian citizen directly. However, there were some initiatives that concerned the Austrian directly, such as the suspension of student programs or the boycott of awarding no honours to any Austrian. The Belgian Foreign Minister urged his population to restrain from taking any skiing vacation in Austria since this would be immoral. Following the Belgian Foreign Minister's announcement, the Austrian newspaper "Kurier" titled "Brüssel, Ski fahren in Österreich ist unmoralisch" on February 3, 2000 which can be translated into "Brussels, skiing in Austria is unethical". Shortly after the sanctions were announced, French schools and universities were requested by French authorities to cancel their skiing trips to

103. Happold, "Fourteen against One: The EU Member States' Response to Freedom Party Participation in the Austrian Government."

104. Waldemar Hummer and Walter Obwexer, "Österreich unter „EU-Kuratel" (Teil 1). Die EU als Wertegemeinschaft: vom völkerrechtlichen Interventionsverbot zum gemeinschafts-rechtlichen Interventionsgebot," in *Eine europäische Erregung : die "Sanktionen" der Vierzehn gegen Österreich im Jahr 2000: Analysen und Kommentare*, ed. Erhard Busek (Wien: Böhlau, 2003), 286-316.

105. Kopeinig and Kotanko, *Eine Europäische Affäre*: 25-28.

106. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU "Sanction" Measures against Austria 2000," 196.

Austria. There were also incidents where Austrians were denied entry or where they became victims of open insults. This was the case at a European Youth Parliament in Strasbourg. At this event, Austrian students had been insulted as “Nazis” and racists¹⁰⁷. In addition, cab companies in Brussels got together and refused to transport Austrians. This implies in Brussels taxi drivers discriminated against Austrians based on the diplomatic sanctions by the EU 14 against the Austrian government.

Another protest action constituted the dis-invitation of the “Österreich-Werbung”, the Austrian institute for tourism advertisement, from the tourism fair in Brussels. Soon, however, these kind of unfriendly acts and actions against the Austrian public were presented as ridiculous in the international media. Consequently, the symbolic protest actions against Austria soon became less¹⁰⁸. The symbolic meaning of the actions against Austria was strong. A member state of the EU was openly and publicly shamed by all 14-member states in 2000. Nonetheless, the situation soon turned around. In Austria, the public was soon talking about sanctions against Austria and not about sanctions against the Austrian government. The wording makes a tremendous difference in how the measures were perceived by the public. Even though the boycott was intended only against Austrian State officials and high-end meetings, the boycott was perceived as directed against the whole population¹⁰⁹.

From the outside the sanctions implied that a whole population was found guilty to vote for Jörg Haider and an extreme right-wing party. In fact, 27,22 % voted for the FPÖ, 26,9 % for the ÖVP and 33,39 % for the SPÖ. The coalition between ÖVP and FPÖ was the result of failed negotiations between the SPÖ and the ÖVP and the refusal of the SPÖ to govern with the FPÖ¹¹⁰. The message send to the Austrian population is that their anger with the establishment expressed by voting for the FPÖ is not welcomed. By trying to discipline Austria, this expression of anger was intended to be suppressed.

107. Kopeinig and Kotanko, *Eine Europäische Affäre*: 25-28.

108. Kopeinig and Kotanko, *Eine Europäische Affäre*: 28.

109. Ibid. 27.

110. Lanier, “Populist Fascism in Austria.”

Was the freezing of diplomatic relations and the shaming of a whole population an appropriate measure to discipline the Austrian far-right populists? The scope of the sanction measures will on the one hand be examined from a legal perspective. On the other hand, the effects of the measures on the intentions of the EU 14, discussed in chapter 2, will be analysed.

3.2.1. Appropriateness of the Sanction Measures – A Legal Question

In the light of the sanction measures which have been announced by the Portuguese EU Presidency in the name of the EU 14 and were transmitted to the Austrian President, Austrian Chancellor and Austrian Foreign Minister, in form of “notes diplomatiques”, the nature of the measures caused a lot of confusion. The measures have often been framed as mere diplomatic acts. As discussed under 3.1. states are free to choose partners for diplomatic relations. For sanctions, however, that go beyond the termination of diplomatic relations with a state, to be a legitimate tool, the target state must be in violation of an international norm. Since the scope of the acts against Austria went beyond the withdrawal of diplomatic relation, the nature of the lawfulness of the measures needs to be looked at in more detail. In addition, the question is whether the scope of the sanctions taken by the 14 countries was the only tool available to discipline Austria? Were the measures taken, proportional, appropriate and limited in respect to the extent of severity of the situation?

The 14 EM Member States issued bilateral sanctions but presented them as a measure carried out by the EU as a unity. Not least, did the EU 14 base their legitimization on the European values laid out in Article 2 TEU. Furthermore, European representatives often spoke of EU sanctions, which gave the impressions that the measures could have been an action based on the mechanism in Article 7 of the Treaty of Amsterdam.

Article 7 Treaty of Amsterdam can only be invoked when the Austrian Government would be in a severe and sustained violation of the European principles (Article 2 and Article 6 TEU). The FPÖ, however, was elected in a fair and democratic process and there was no European threshold in place which could have determined that the

profile of the FPÖ is in violation of European principles. In Austria, the FPÖ constituted a legitimate party. Sanctioning a European country because the election result is not in the interest of other European countries would, thus have been a breach against the democratic principle. Disputable statements of FPÖ functionaries per se were also not enough to legitimize the sanctions under Article 7 Treaty of Amsterdam. Antidemocratic ideas and ideas threatening the Austrian Constitution which have been advocated by Haider, cannot be classified as a violation as these ideas were not on the brink to be implemented¹¹¹. Furthermore, Article 7 Treaty of Amsterdam does not provide for any of the measures that were taken against Austria. A violation of European principles may result in the withdrawal of voting rights in the European Union according to Article 7. Non-support of Austrian officials who want to candidate for International Organisations or the suspension of official bilateral contacts, were not among the remedies in Article 7. The sanctions can therefore from a legal point of view not be classified as an EU measure¹¹².

Furthermore, the way the sanctions measures were initiated, affirms that they have not been a measure based on European law. The circumstance that the sanction measures were initiated only by a few of the 14 countries in a rather secretive diplomacy increased confusion about the nature of the sanctions. It contributed to the impression that they were not decided in the light of a supranational interest but on the contrary had an adversely impact on supranational ideas. Although the measures against the Austrian government were presented as a measure supported by all 14 Member countries, smaller, less influential countries were circumvented in the discussions and were in the end presented with a *fait accompli*. In addition, neither the European Parliament nor the Commission as the supranational institutions of the EU were involved in the debates. As the sanctions were designed as bilateral measures, the supranational ability of the EU as an International Organisation to solve such a crisis was undermined¹¹³.

Among the leading countries in the matter, however, different procedures to solve the Austrian affair were discussed. The strongest voice for sanction measures was

111. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*: 150-158.

112. Ibid.

113. Leconte, "The Fragility of the EU as a "Community of Values": Lessons from the Haider Affair," 638-639.

France under its President Jacques Chirac. An alternative approach was presented by Belgium. Prime Minister Guy Verhofstadt wanted to call for an extraordinary meeting of the 14 member countries and confront the Austrian Chancellor Wolfgang Schüssel. The member countries could have raised their concerns and Mr Schüssel would have had the chance to consider and react to their concerns¹¹⁴. This shows that from the beginning not all European countries, not even the leading heads of government, were convinced by the sanction measures. France's call for sanction measures, however, was enforced in the end. Leconte (2005) describes this circumstance as one reason why for the wider public the measures were interpreted as bilateral power game between France and Austria based on old historical rivalries¹¹⁵.

When the 14 EU member states declared their measures, important EU institutions largely confirmed their support for the sanction measures. The European Commission accepted the sanctions with unanimity including the Austrian Commissioner of Agriculture, Franz Fischler. In their announcement, the European Commission referred to Articles 6 and 7 Treaty of Amsterdam but without defining explicit measures. The European Parliament and the Committee of the Regions also welcomed the sanction measures with a majority. Reasons given by the Committee of the Regions were that Austria included a party that is intolerant, hostile and promotes nationalism¹¹⁶. The European Commission, however, as the most important executive body of the European Union was not consulted about the Member States' intentions regarding Austria. On the other side, the Commission was only informed about the measures¹¹⁷.

Thus, the measures had not been legitimized by European law. Therefore, the lawfulness of the measures under international law will be examined. Firstly, according to European law as well as to International law necessary conditions for a sanction measure to be lawful are proportionality and limitation. In the case of the Austria the measures can neither be seen as proportional nor limited. From a legal perspective sanctions can only be justified when a state has broken or violated the

114. Ibid.

115. Ibid. 640-641.

116. Hummer, „Behinderung der Mitwirkung Österreichs an der Willensbildung,“ 139-220.

117. Kopeinig and Kotanko, *Eine Europäische Affäre*.

law. Secondly, the measures were not limited. When the sanction measures were imposed on Austria the EU 14 did not provide an exit strategy. This means that at the beginning no strategy was laid out when and under what specific circumstances the sanction measures against Austria will be ended¹¹⁸.

As discussed above the scope of the sanctions included:

1. Keeping diplomatic relations to a technical level
2. Austrians running for positions in international organizations were not supported by fellow European countries.
3. No extracurricular meetings with Austrian officials on a political level as long as the FPÖ is part of the government.

Cutting diplomatic relations as well as not supporting representatives of a state running for positions in international organizations is the free choice of any state. No country can be forced to support or not support another country aiming for high positions in an international organization¹¹⁹. From this perspective, the measures taken against Austria cannot really be described as "sanctions" but rather as some tension of the diplomatic relations between Austria and the rest of Europe¹²⁰. However, the pullback of European support for Austrian representatives who applied for high positions in any international institution may be classified as discriminatory. This discriminatory behaviour towards Austrian officials would be in contradiction with the principle of non-discrimination based on nationality¹²¹.

In the case of the European Union, the reduction of diplomatic relations to the technical level and the suspension of bilateral political relations with Austria can also be interpreted as a breach against the European principle of loyalty among the Member countries. According to Article 10 TEU the European Members are committed to work together and support each other. This is essential for the general functioning of the European Union and can be put under the umbrella of two

118. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU "Sanction" Measures against Austria 2000," 209.

119. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*: 168-176.

120. Frank, "Raureif: Die Konfrontation der EU mit Österreichs Regierung im Jahr 2000 war ein bis heute verleugneter Erfolg."

121. Leconte, "The Fragility of the EU as a "Community of Values": Lessons from the Haider Affair," 639.

principles – cooperation and consideration. The fact that ministers left meetings as soon the Austrian representative was about to give his or her speech can also be linked to these principles. The general work of the EU was constrained by the fact that a Member States opinion on daily EU affairs was not fully taken into consideration. It can be argued that these “unfriendly acts” reached beyond the exertion of political pressure on Austria. Therefore, also from this perspective the lawfulness of the actions against Austria cannot be fully confirmed¹²².

3.2.2. The Issue of Effectiveness

The sanctions were suspended in September 2000 despite the continuity of the ÖVP-FPÖ coalition government. The overall aim to dismantle a coalition which included a far-right populist party could, thus, not been achieved. In retrospective, a major issue that was left aside when the sanctions were imposed on Austria was the determination of an exit-strategy. On the contrary, the initial motivations of the sanctions even backfired on the political elites who initiated the actions. As such a wave of far-right populism in Europe could not be prevented nor could the FPÖ be dissolved. Furthermore, the Europeanisation of a sensitive policy area was first initiated by interfering in a Member State’s domestic affairs. The 14 Member States, with France, Belgium and Germany as the leaders in this matter, tried to legitimize their actions by putting emphasis on European principles. When the consequences of such an attempt of deeper integration were realized many of the countries rowed back which also led to a loss of credibility of the EU’s ability to cope with crisis’s situation.

3.2.2.1. EU’s Loss of Credibility

In general, the quick end of the sanction measures can be interpreted as a failed attempt that was intended to foster European integration. At the beginning, European values were put in the forefront but finally reluctance over Europeanisation in sensitive political areas succeeded. Many countries were convinced by the measures

122. Serini, *Sanktionen der Europäischen Union bei Verstoß eines Mitgliedstaats gegen das Demokratie- oder Rechtsstaatsprinzip*: 167-173.

at the beginning but changed their point of view during the sanction period. During the course of the sanctions countries became concerned about the possible “spillover effect” of the measures. There was a sudden awareness that the Austrian coalition case could serve as a precedent which could apply to other governments in the future. The sanctions were taken as a short-sighted policy which did not consider unintended demands for more integration in other areas.

At the beginning of the sanctions against Austria, other voices were raised against European governments. The German Chancellor Gerhard Schröder raised his voice for EU sanctions against an Italian government that would include the Alleanza Nazionale and Lega Nord. The Swedish Prime Minister also followed the example and proclaimed his concerns regarding the political parties in Denmark. Former advocates of the Austrian sanctions in Italy, however, found the German suggestion impossible. The fear that “democratic interference” could become common use, persuaded EU leaders to take a step back. In the light of this “spillover effect” opponents of the sanctions started to advocate in their countries to withdraw the sanction policy against Austria¹²³. This sudden change of heart among many of the European leaders implies that the sanction measures taken, were too dramatic and overshot.

The FPÖ Affair also put its finger on the EU’s democratic deficit. The way the EU 14 instrumentalized the European value framework for their own purposes damaged the EU’s credibility in different ways. As the EU declared itself the advocate of values, it became a challenge for the community to adhere to these values within the EU but also towards third countries. Double standards and hypocrisy were at stake. Can the EU really promote and adhere to its proclaimed values consistently¹²⁴? At the same time, it was not only Austria’s FPÖ who brought controversial statements about the Jews. Countries like Libya, Syria, Iran and Iraq committed major human crimes and some Middle Eastern regimes deny until today the horrors of the Holocaust and the mass murder against the Jews.

123. Leconte, “The Fragility of the EU as a “Community of Values”: Lessons from the Haider Affair,”: 939-642.

124. Peter Pernthaler and Peter Hipold, „Sanktionen als Instrument der Politikkontrolle - Der Fall Österreich,” in *Eine europäische Erregung : die "Sanktionen" der Vierzehn gegen Österreich im Jahr 2000: Analysen und Kommentare*, ed. Busek Erhard (Wien: Böhlau, 2003), 91-108.

Despite these facts, the EU was negotiating trade and business deals with these regimes. It seemed easy on the surface to make this grand gesture of tutelage towards Austria. Gehler (2002) states that during Russia's war of extermination in Chechnya, Putin was tolerated as a far-sighted politician. However, being consistent in protecting and keeping up to once values is a different story¹²⁵. I argue that this kind of hypocrisy is one of the biggest challenges for the EU today¹²⁶. The way the EU 14 and EU institutions treated Austria manoeuvred the EU in a difficult situation. Where is the line drawn according to the principle that all member countries are treated equally? The EU wanted to emerge towards a community of values but faced a problem of double standards. National interest remained a priority and different standards were applied to states outside of the Union. Such kind of double standards clearly resulted in a loss of credibility¹²⁷.

In fact, the public got the impression that the EU was not able to handle the situation properly which lead to a loss of credibility of the EU's ability to handle conflicts with and among its Member States. The fact that the EU could not handle Austria's affair on an EU wide level showed a degree of powerlessness. Instead Paris Brussel and Berlin guided and decided the matter which at the time left the impression that the EU would fall into the rule of the strongest nations within the EU. This powerlessness was later also proven when an external committee had to be appointed to find a way to end the sanction measures. Subsequently however, it is being determined under Article 7 how the EU should act if a similar situation happens in the future. As a result of the Austria crisis in 2000 Article 7 was amended during the summit of Nice. Article 7 paragraph 1 of the Treaty of Nice constitutes the prevention mechanism as follows:

"1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a clear

125. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU 'Sanction' Measures against Austria 2000."

126. Krauthammer, "Europe's Austria Hypocrisy."

127. Gehler, "'Preventive Hammer Blow' or Boomerang? The EU 'Sanction' Measures against Austria 2000," 203.

risk of a serious breach by a Member State of the values referred to in Article 2. Before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply."

The article continues in paragraphs 2 to 3 with the procedures that will be taken when the breach of the values referred to in Article 2 is serious and persistent. Article 7 paragraph 2 states that:

"the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council."

Paragraph 4 of Article 7 gives the provisions for ending the sanction measures:

"The Council, acting by qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed¹²⁸.

Nevertheless, Article 7 leaves some questions unanswered. What are the precise EU values which are protected by this mechanism and what is the threshold for a measure or a non-measure to be classified as a serious breach¹²⁹?

Gehler argues that in Austria's case the sanctions measures had no legal basis. Article 7 TEU laying the basis for EU institutions to intervene whenever a member

128. Treaty of Nice. February 26, 2001.

129. Andreia Ghimis, "Article 7 TEU: A Mechanism To Protect EU Values," *European Parliamentary Research Service Blog*, October 7, 201, accessed August 20, 2017, <https://epthinktank.eu/2013/10/07/article-7-teu-a-mechanism-to-protect-eu-values/>.

state threatens one of the core EU values, was included in European law by the Treaty of Amsterdam. After Austria's crisis Article 7 was amended in the Treaty of Nice in 2001. The amendment of Article 7 includes a prevention mechanism which allows EU institutions to intervene before a breach of the values under Article 2 occurs. These amendments were the answers to the lessons learnt from "Austria's sanction affair".

3.2.2.2. A Boomerang-Effect?

A boomerang can be observed on two levels: first, on the national level and second on a European level. Given the political dissatisfaction in Austria and the starting aversion of the establishment parties in the country, the positive statements of Klestil and Klima on the sanctions, only confirmed people's opinion. In addition, the shaming of the FPÖ by Austrian State officials as well as by the fellow European Member States also strengthened Haider's position that the fate of Austria is dictated by Brussel's bureaucracy. Secondly, on European level Austria's State officials showed weakness by their inability to negotiate a more favourable outcome for Austria.

The sanction measures soon backfired within Austria as the Austrian public widely started to perceive them as unfair and illegitimate. When the ÖVP-FPÖ coalition government was sworn in weekly demonstrations on the "Ring" in Vienna followed. Austrian journals and newspapers too held widely a very critical position towards the new government among them. The outrageous sentiments did not last long and soon turned from protesting the government into protesting the sanctions. A critical view on the ÖVP-FPÖ government was maintained, but the sanction measures were largely denounced as "hypocritical" accusing the EU Member States for using the measures out of mere self-interest¹³⁰.

To sum up a change of the sanctions from being perceived as legit and right to being seen as unfair and unlawful can be observed. The first phase constituted a defensive position of the governing parties towards the sanctions and a more offensive approach of the opposition parties against the ÖVP and FPÖ. There was no solidarity

130. Strauß and Ströhle, *Sanktionen : 10 Jahre danach: die Maßnahmen der Länder der Europäischen Union gegen die österreichische Regierung im Jahr 2000.*

among Austrian parties. Between SPÖ and ÖVP a clear divided had emerged. Alfred Gusenbauer, leader of the SPÖ, accused Wolfgang Schüssel of having consciously taken the risk to isolate Austria. According to the accusations of the SPÄ, Mr Schüssel excepted the consequences to become Chancellor. In the early phase of the measures, the SPÖ widely saw the approach of the EU 14 as legitimate and necessary¹³¹.

In the course of the sanctions, ÖVP and FPÖ started to argue more offensive. The governing parties started to put emphasis on the unlawfulness of the sanctions measures. Guilt was assigned to the opposition parties for supporting the sanctions and turning their back on Austria. Finally, this kind of discourse, contributed to the perception that the sanctions where perceived as sanctions against Austria as a whole. Furthermore, the image was strongly supported by Austrian media such as the "Kronenzeitung"¹³².

Secondly, how did the boomerang-effect of the sanctions reflect on a European level? The 14 member states started a confrontation with a fellow member state but did not provide a remedy for Austria how to improve its situation. At first, the conditions under which the EU 14 would suspend their sanctions were the dissolution of the Austrian current Government and the formation of a new Government without the participation of the FPÖ. The idea, however, that a sovereign government would dissolve its government because some partners of the community are not happy with their election outcome, seems naïve. In retrospective, a major issue that was left aside when the sanctions were imposed on Austria was the determination of a solid and useful exit-strategy for Austria on the one hand and for the parties confronting Austria. Looking at the conditions under which the sanctions would be suspended, it occurs that EU-14 did not provide Austria with any scenarios that would have allowed the country to get out of the situation without losing face¹³³.

131. Göllner, *Die politischen Diskurse zu "Entnazifizierung", "Causa Waldheim" und "EU-Sanktionen": Opfernarrative und Geschichtsbilder in Nationalratsdebatten*: 453-455.

132. Ibid. 519-522.

133. Frank, "Raureif: Die Konfrontation der EU mit Österreichs Regierung im Jahr 2000 war ein bis heute verleugneter Erfolg.

3.3. FPÖ's Crisis after 2000 - Self-corrective or the Sanctions' Success?

Müller (2016) discusses the success of populists from a short-term and a long-term point of view. In the short-term they succeed to mobilize people for their political convictions but in the long-run the success of populism is difficult. The reasons for this self-corrective are that populist parties are protest parties. If they play the role as opposition leader, they can live in a "political fantasy land" and make outrageous promises to their electorate¹³⁴. In the short-term, however, populists tend to get away with unfair behaviour. Due to the moral legitimization of their leadership revelation of corruption or embezzlement do not seem not to populists. The charismatic conviction of the populist makes people blind to see what is really happening¹³⁵. Was that the case when the FPÖ entered the coalition government in 2000?

Only two years after the coalition was formed, Vice-Chancellor Riess-Passer and her cabinet resigned and the coalition government was dissolved. In coalition with the ÖVP the FPÖ simply could not prove to be fit for governing. From one point of view the FPÖ did not manage the transition from having been a protest party in opposition to becoming a responsible governing party. There were deep internal divisions within the government team but also between Haider and the larger FPÖ. On the other hand, in many policy areas there were wide differences in policy expectations between the ÖVP and the FPÖ. These experiences increased the ÖVPs popularity but hurt the FPÖ in the subsequent elections. Schüssel, thus managed to bring the FPÖ into governmental responsibility which they failed to fulfil¹³⁶.

Haider in this scenario somehow went his own path. He declined to become Vice-Chancellor, instead remained Chief of Carinthia and handed over the party leadership to Vice-Chancellor Riess-Passer. He did not manage to bring the FPÖ on a coherent governing course but trusted in acts of political provocation against Schüssel and the ÖVP. This, however, brought harm than any good. His and the FPÖ's reputation on a national level was harmed. The FPÖ's shares in votes in the national election 2002 dropped to 10%¹³⁷. This analysis leads to the conclusion that

134. Müller, *What is Populism?*, 41-45.

135. Ibid.

136. Luther, "Governing with Right-Wing Populists and Managing the Consequences: Schüssel and the FPÖ," 88-91.

137. Ibid. 90-91.

Haider's temper and megalomania forced him to remain "Landeshauptmann" in Carinthia rather than co-leading a government with Mr. Schüssel.

Frank (2010), however, argues that Haider's retreat from national politics to regional politics was a direct result of the sanction measures¹³⁸. In fact, a government which would have included Haider would have been disastrous for Austria. The 14, thus, started a wave of protests in Austria which made Haider's reputation regarding national politics more difficult. Instead, he remained in Carinthia and put the focus of his political career on the regional level, for now. The political pressure from the fellow European States made Austria realize that any form of involvement of Haider in the government would have had a damaging effect beyond repair on Austria's political possibilities and standing abroad, states Frank (2010). From Frank's point of view Haider calculated these costs well and did not want to take the risk. From my point of view, however, it seems that Jörg Haider did not want to be the second fiddle next to Wolfgang Schüssel. Frank discusses that a bigger political disaster could be prevented due to the sanction measures and the public awareness they caused.

Nonetheless, as a counterfactual one may ask whether the FPÖ-ÖVP would have collapsed sooner with Haider. In this case a self-corrective might have proven earlier and more efficient than the sanction measures. Moreover, as a regional politician Jörg Haider did manage to uphold his influence and positive reputation. The negative press and publicity even helped him in this position. He used the circumstances to show his electorate how "the others" judge and are wrong. As a politician in the province of Carinthia Jörg Haider, indeed, did not lose his legitimacy. The FPÖ as a governing party on the other side could not keep its promises in the coalition government and was not elected a second time in the elections in 2000. Ergo the party did not go through the first period in office without any harm.

138. Frank, "Raureif: Die Konfrontation der EU mit Österreichs Regierung im Jahr 2000 war ein bis heute verleugneter Erfolg.

Concluding Remarks

The first hypothesis underlying this master thesis argued that the diplomatic sanctions imposed on Austria in 2000 backfired and failed their goal to prevent a rise of the far right. This is linked to the broader issue of the emergence of populism in Europe. Major driving forces of the sanction measures are linked to the fear of a rise of the far-right. The measures should condemn Austria for allowing the far-right FPÖ to enter the government and break a taboo in the political history of post-war Europe. The inclusion of the FPÖ into the government was of significance for the European Heads of State not only for historical reasons but first and foremost for individual political motivations.

The findings of this thesis also suggest that the so often stated responsibility to protect EU values disguised the political motivations of the 14 Heads of State, especially France and Belgium. This political power game is also linked to the fear of a right-wing domino effect in Europe. An increase in voters for populist parties would mean a decrease in voters for Social Democratic or Christian Conservative parties which dominated the political sphere throughout the 1990s. The sanctions measures could, however, not prevent a rise of far-right parties, neither in the short, nor in the long run. In the case of Austria, the FPÖ could not hold their position as a governing party and suffered credibility shortly after their time in office. Nonetheless, the FPÖ recovered and regained voters in the last ten years. In other parts of Europe, populist parties did not stop to gain popularity after the sanctions were imposed.

The Austrian crisis 2000, however, made the EU realize that situations may occur where member states threaten one of the EU's core principles. Chapter one of this thesis discussed the populist profile and nature of the FPÖ under the leadership of Jörg Haider. It was examined that populists in power tend to adopt policies that contradict democratic values. The findings also confirmed that Jörg Haider qualified as a populist. In the case of the FPÖ as part of a coalition government a threat to democratic values was not given. Not least, since Jörg Haider was not appointed as Vice-chancellor but retreated to regional politics in Carinthia. Austria's crisis, nonetheless, created awareness that populists can become dangerous to European

values. It furthermore, drew attention to what the EU's options were, to deal with member states which take an anti-democratic or anti-liberal path.

Article 7 of Treaty of Amsterdam included a basic procedure that allowed member states to act against a member state which is violating a European core principle. The article, however, did not provide for preventive measures. A prevention mechanism was only added to Article 7 in the treaty of Nice in 2002. By invoking Article 7, member states "may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2". The amendment in the Treaty of Nice, does not provide for clear threshold. There is no clear determination of when one can speak of a serious breach and how this can be determined. Leconte (2005) links this lack of concrete thresholds to a fear among European member states of too much Europeanisation. The initial euphoria to legitimize the sanctions as a measure to protect EU values was followed by a caution.

Hypothesis two tested the expediency of sanctions as a policy measure to discipline European member states. It was found that sanctions against a European member country bear the danger of perceived double moral and hypocrisy. In addition, the sanctions against the Austrian government widely provoked negative sentiments towards the European Union among the Austrian population. When a party is blamed and discredited for its success by the European community, the people voting for them are also discredited for their voting behaviour. After the Austrian case in 2000 no other state was sanctioned on a European level. A reluctance of using sanctions again can be linked to a fear of too deep integration and a lack of thresholds. Currently, Poland is under scrutiny by the European Commission. The Commission alleges the Polish government of an erosion of the rule of law and started a process of scrutiny in December 2016 giving Poland time to rethink its current situation. This approach implies that the European member state this time rely on dialogue as a first measure.

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Treaties on the European Union

Treaty on European Union. February 7, 1992.

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On my honour as a student of the Diplomatic Academy of Vienna, I submit this work in good faith and pledge that I have neither given nor received unauthorized assistance on it.

A handwritten signature in blue ink, consisting of stylized cursive letters followed by a long horizontal stroke.