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AUSTRIA: WALDEHEIM HANGS ON AMIDST CONSTITUTIONAL

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COMPLEXITIES]

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THE HISTORICAL COMMISSION INVESTIGATING PRESIDENT KURT WALDHEIM'S KNOWLEDGE AND COMPLICITY IN WAR CRIMES PRESENTED ITS FINDINGS TO THE AUSTRIAN GOVERNMENT ON 8 FEBRUARY. THE REPORT ACCUSED WALDHEIM OF A KNOWLEDGE OF WAR CRIMES AND OF DELIBERATELY MISLEADING THE PUBLIC ABOUT HIS WORLD WAR II ACTIVITIES. IT DID NOT PRODUCE NEW CONCLUSIVE EVIDENCE THAT WALDHEIM DIRECTLY PARTICIPATED IN WAR CRIMES. ~~(C-NE)~~

STAYING A STATESMAN

WALDHEIM CONTINUES TO INSIST HE WILL COMPLETE HIS PRESIDENTIAL TERM-- WHICH ENDS IN 1992--THOUGH SOME OBSERVERS HAVE SUGGESTED WALDHEIM MIGHT BE INDUCED TO STEP DOWN AFTER A "DECENT INTERVAL." FOR THE REMAINDER OF HIS TERM WALDHEIM WILL PROBABLY POINT TO THE COMMISSION'S "EXHAUSTIVE AND IMPARTIAL" INQUIRY AS VINDICATION OF HIS LACK OF PERSONAL CULPABILITY, DESPITE ITS SLURS ON HIS CREDIBILITY. ONCE THE COMMISSION REPORT IS BEHIND HIM, WALDHEIM SEEMS LIKELY TO WITHSTAND BOTH DISDAIN FROM ELEMENTS OF THE GOVERNMENT AND PUBLIC AND FOREIGN PRESSURE TO RESIGN "FOR THE GOOD OF THE COUNTRY." NO OTHER SERIOUS OBSTACLES TO HIS TENSURE ARE APPARENT. COMING EVENTS SUCH AS THE 50TH ANNIVERSARY OF THE ANSCHLUSS IN MARCH AND THE PAPAL VISIT IN JUNE COULD PERMIT HIM TO COURT PUBLIC OPINION BY ADOPTING A STATESMAN-LIKE GUISE. ~~(C-NE)~~

BECAUSE OF THE POTENTIAL FOR NEW EVIDENCE OF WALDHEIM'S COMPLICITY IN WAR CRIMES TO EMERGE, THE ISSUE OF HIS RESIGNATION COULD RISE AGAIN. WALDHEIM'S DETERMINATION TO HANG ON, HOWEVER, IS ALMOST CERTAINLY BE STRENGTHENED BY THE COMPLEXITY AND POLITICAL RISK INVOLVED IN TRYING TO FORCE HIS DEPARTURE. WE BELIEVE THERE IS LITTLE THE GOVERNMENT CAN DO TO OUST HIM UNLESS WALDHEIM AGREES TO RESIGN OR UNLESS THERE IS A CONSENSUS ON HOW TO REMOVE HIM. ~~(C-NE)~~

A CONSTITUTIONAL AMENDMENT...

IF THE AUSTRIAN GOVERNMENT WERE TO TRY TO FORCE WALDHEIM TO RESIGN, WE BELIEVE THE MOST LIKELY OPTION WOULD BE A CONSTITUTIONAL AMENDMENT TO ENABLE THE PARLIAMENT TO APPOINT WALDHEIM'S SUCCESSOR, RATHER THAN CALLING NEW ELECTIONS AS IS NORMALLY THE CASE IF THE PRESIDENCY IS VACATED. THIS SCENARIO ENVISIONS CONCURRENCE BY WALDHEIM'S CHIEF BACKER, CONSERVATIVE PEOPLE'S PARTY LEADER AND FOREIGN MINISTER MOCK, IN CALLING FOR WALDHEIM'S RESIGNATION--PRESUMABLY IN EXCHANGE FOR SOCIALIST SUPPORT IN NAMING ANOTHER PEOPLE'S PARTY POLITICIAN TO COMPLETE WALDHEIM'S TERM. ~~(C-NE)~~

A CONSTITUTIONAL AMENDMENT NEEDS A TWO-THIRDS VOTE OF THE REQUIRED QUORUM IN THE LOWER HOUSE. IF THE MAJOR PARTIES AGREED ON THIS ROUTE, THE AMENDMENT COULD PROBABLY BE ENACTED IN A MATTER OF DAYS; SUCH AN AMENDMENT WOULD ONLY GO TO A VOTER REFERENDUM IF ONE-THIRD OF EITHER HOUSE OF PARLIAMENT DEMANDED IT. SOME SOCIALISTS--THOUGH NOT PRIME MINISTER VRANITZKY TO OUR KNOWLEDGE--ARE ADVANCING THIS OPTION. MOCK IS CLOSELY TIED TO WALDHEIM, HOWEVER, AND WE DO NOT THINK HE IS READY FOR THE ONUS OF BEING RESPONSIBLE FOR THE PRESIDENT'S FORCED REMOVAL FROM OFFICE. ~~(C-NE)~~

... A REFERENDUM?

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THE PRESIDENT IS POLITICALLY RESPONSIBLE TO THE PEOPLE AND ALSO CAN BE DEPOSED BY REFERENDUM. ACCORDING TO THE CONSTITUTION, THE LOWER HOUSE OF PARLIAMENT COULD, WITH TWO-THIRDS OF THE VOTES CAST, MOVE TO CONVOKE BOTH CHAMBERS WHICH COULD THEN CALL FOR THE REFERENDUM. THE RISK IN THIS FOR CHANCELLOR VRANITZKY AND FOREIGN MINISTER MOCK IS THAT REJECTION OF THE REFERENDUM RESULTS IN THE AUTOMATIC DISSOLUTION OF THE LOWER CHAMBER AND NEW ELECTIONS. ~~(C NF)~~

POLLS SHOW AUSTRIAN VOTERS REMAIN SYMPATHETIC TO WALDHEIM, AND POLITICIANS ARE RELUCTANT TO TAKE THE GAMBLE THAT THE "GRAND COALITION" PARTIES WILL LOSE STRENGTH IN THE ELECTIONS AND HAVE TO RENEGOTIATE A COALITION AGREEMENT. MOREOVER, AUSTRIAN LEADERS DO NOT WANT THE DEVISIVENESS OF ANOTHER PUBLIC AIRING OF THE WALDHEIM ISSUE--PARTICULARLY ON DURING THE 50TH ANNIVERSARY OF THE ANSCHLUSS AND A PAPAL VISIT. ~~(C NF)~~

A THIRD OPTION

SINCE THE PRESIDENT IS LEGALLY RESPONSIBLE TO PARLIAMENT ANOTHER OPTION WALDHEIM WOULD ENTAIL A FORMAL PARLIAMENTARY CHARGE BEFORE THE CONSTITUTIONAL COURT THAT WALDHEIM HAD VIOLATED THE CONSTITUTION. CONVICTION WOULD RESULT IN LOSS OF OFFICE. IN THE CASE OF CRIMINAL CHARGES, THE PUBLIC PROSECUTOR WOULD SEEK APPROVAL FROM THE MINISTRY OF JUSTICE AND FROM PARLIAMENT TO INSTITUTE LEGAL PROCEEDINGS AGAINST THE PRESIDENT. (C NF)

THE ONLY NAZI CRIME STILL ON THE BOOKS IN AUSTRIA IS MURDER, AND IT IS AN OPEN QUESTION WHETHER THE CHARGES RAISED IN THE REPORT WOULD SUFFICE FOR PROSECUTION, MUCH LESS CONVICTION. COMMISSION MEMBERS THEMSELVES SEEM TO DIFFER ON WHETHER WALDHEIM'S WARTIME ACTIVITIES MAKE HIM LIABLE FOR CRIMINAL PROSECUTION. THE ISSUE OF WALDHEIM'S IMMUNITY FROM PROSECUTION AS PRESIDENT, MOREOVER, IS NOT CLEAR. ~~(C NF)~~

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