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qualified majority vote was previously used. Moreover, the qualified majority vote procedure will become more complicated due to the new 3-step procedure. The requested percentage for qualified majority decisions will amount to 73.5%. A Council decision will also require the simple majority of Member States. And the third hurdle which must be overcome to reach a Council decision is that any Member State can apply that it be established that the majority represents 62 % of the population. This so-called "demographic safety net" is just a further possibility for blocking decisions.

So it can clearly be seen that the summit has not achieved its goal of putting the European Union into the state of being ready for enlargement. As enlargement is a historical, political and economic "must", we cannot accept a result that will lead to the long-term destruction of the European Union. It has to be assured that an EU of 27 Member States can still function.

For this reason, and considering the broader democratic deficit as well, I will advise the European Parliament to vote "no" when the report of the results of the Nice Summit is discussed in the plenary session in February 2001. A rejection of the Treaty will not lead to a delay of enlargement because there are several ways to avoid this scenario:

□ When it turns out that the Treaty of Nice is not an applicable solution we will need a new round of negotiations. The earlier this new round starts the better.

□ In the past the technical conditions for the accession of new states – such as the number of votes in the Council or seats in Parliament – have always been part of the accession treaties. This would also be profitable for the accession states as they could not be tricked.

□ The imperative revision of the Community treaties (the so-called post-Nice process) with the simplification of the treaties, the incorporation of the Charter of Fundamental Rights as legally binding and the delimitation of competencies between the EU and the Member States could take place before 2004 and start immediately.

These alternative ways could also be varied. The argument that a rejection of the Nice Treaty would delay enlargement does not convince. Lasting structural mistakes should be abandoned soon because the chances of these being revised in a Union of 27 Member States will decline. Successful "post-Nice" and enlargement should soon become reality. We therefore need a better version of the Nice Treaty.

Jan Kulakowski*

Federation and a Wider Union

An Attempt to Respond to Joschka Fischer

My generation of Europeans experienced the tragedy of World War II and saw the devastation brought by communism. We also witnessed the success of European integration and participated in Poland's Solidarity revolution, which finally resulted in the fall of communism and opened the path to the reunification of Germany and of the European continent.

I have been committed to the European integration process since the very beginning, since the fifties. Therefore I would like to put aside for a while my official hat of Poland's chief negotiator with the

European Union and speak not as a member of the government but rather as a committed European, just as Joschka Fischer, German minister of foreign affairs, did in his speech at the Humboldt University in Berlin. I want to consider Europe's future, bearing in mind what I have seen in the past and what I am experiencing today. Moreover, I would also like to add my views on the Union's enlargement process. I am convinced that slowing down the enlargement process in order to ponder first the ultimate destiny of Europe would in no way help in resolving the Union's existential problems. It will simply delay finding "right" solutions.

Problems and Objectives of Integration

European integration has reached the goals which were set almost half a century ago in times of utmost

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threat to European civilisation. After the hecatomb of World War II and under the threat of Soviet oppression, the nations of Western Europe managed to maintain the peace, and in particular to reconcile France and Germany. This was possible, however, at the price of the suppression of democracy and freedom in the other half of the continent by the communists. The Marshall Plan provided a financial stimulus and an incentive to the free part of Europe, whose economies recovered and experienced an unprecedented period of development in terms of both pace and duration. The American nuclear umbrella averted the menace of ultimate destruction. However, only the western part of Europe enjoyed the privileges of welfare and security.

The events of 1989 enabled the foundations to be laid for the political integration of the whole continent. The biggest challenge facing contemporary Europe is the enlargement of the Union, the natural consequence of these events. The "Community peace method" – this unique invention of Europe of the twentieth century – needs to cover the countries of Eastern and Central Europe as well. Perhaps the most difficult element of this challenge is the experience gap of the last half century. For Western society this was the time when it achieved stability and affluence. For Central Europe this was the time of departure from the mainstream of civilisation, and then the time of struggle to regain the right to democracy. For the whole of Europe this was the time when its global role was questioned.

However, the enterprising spirit of Europe has already awoken. The Union's single market is a major achievement and a great success. Euro banknotes and coins will soon be circulating. Transparency of prices and competition across the whole single market will result. Business in the EU member states is profiting from the stability created by monetary union. During the last ten years the young, dynamic, well-educated and hungry-for-success entrepreneurs of Central Europe have proven their ability to adapt to new rules of competition. The economic dynamism of the countries in this region brings hope for a better future and it complements the activities of EU businessmen, who are entering the new Central European markets with increasing boldness. The accession of Central European countries to the EU will be the crown of those labours.

Yet, those labours are pursued alongside the objectives set by the founding fathers of Europe half a century ago – namely to establish "ever closer Union among the peoples of Europe". Under current circumstances those objectives still need to be pursued with due diligence – since nothing but integration of

those nations, and cooperation with the USA, can guarantee peace in Europe. At the same time, however, new objectives need to be set today, ones to be endorsed also by the new EU members. Those new objectives will define the shape of Europe for the next half century. The European Union must take a lead in guiding the development of integration at the world level. It must play an even greater role in world institutions such as the WTO or the world environmental bodies. It cannot leave all crises for the United States to settle; at a minimum it must have the capacity to deal with security on the European continent. And there are many other new policy challenges for the Union, all of which result from the great success of the first 50 years of integration. In my view, a pre-condition for carrying those objectives into effect is a swift and efficient EU enlargement. It is also an opportunity to build sustainable foundations for political cooperation between Poland and Germany, which should complement the process of European reconciliation. Polish-German friendship and cooperation thus lie in the best interest of Europe as a whole.

The Future of Europe – Federation or Union

The European Union also faces dramatic problems internally. How far and how fast should further steps towards integration go? What relationship should there be between member states which wish to integrate further, and those which are more reticent? What is the role of the nation state in a federating Europe? These are all questions to which political élites in Europe are now turning. My hope is that these vital debates are held in the greatest openness, so that the charge of a democratic deficit cannot be held against the Union once again.

Against such a background, Joschka Fischer presented his concept of the future of Europe, which can be summed up in the words: "let's build a Federation". This proposal deserves several comments. As a convinced European, I think that federation is an obtainable goal of integration. However, the significant problem is how such federation is to be accomplished. I was provoked to think deeply about this concept by the Fischer speech and I am sure that he has done a great service to European integration by stimulating such deep consideration in all the European capitals.

His federal vision of Europe assumes the establishment of the institutions of government, of a parliament and of a president elected in direct elections. Those institutions would cover the group of those states which are ready for such a step. Flexible integration is to become the means to such an end. In the words of

Mr Fischer such a step would require "a conscious, political act, aiming at the re-establishment of Europe".

Starting from this outline of the Federation concept, we need to ask several further questions to clarify some of the obvious difficulties, difficulties recognised by Fischer himself.

The Cohesion of the Union

Firstly, how will a coherent institutional framework of the European Union be preserved? So far this has been the "sacrum" of integration. The very existence and efficient functioning of the Union was perceived as both the substance of integration and a necessary pre-condition for finding the element shared by the diversity of interests of integrating countries. Federation – this new quality of integration – will function, so to say, within the European Union. States of the Federation would speak in the Union with the one voice of their government, their parliament and their president. However, here we need to think imaginatively to avoid undermining the institutional framework of the EU. Institutions of another integration (the Federation) would, so to say, be working inside the Union framework.

I am aware that from the purely theoretical point of view such a situation does not necessarily seem to pose a significant problem. Already now – and it has been so since the very beginning of integration – the institutions of nation states successfully operate within the framework of European Union institutions. Hence it would seem that the emergence of new political institutions – those related to Federation – within the EU will not significantly change the operational logic of the latter. However, it will be important that this is also true in practice. It will be necessary to ensure that there will not be major tensions between the institutions of the Federation and those of the Union.

Paradox of Power

A second series of questions concerns the way in which the Federation is represented in the Union. A moment will come when the government of the Federation wishes to speak with one voice on its behalf in all forums of the Union. Such a situation signifies that the Federation would have a certain number of votes in the Council of Ministers, a certain number of seats in the European Union's Parliament and the right to appoint a certain number of Commissioners. Hence it will become necessary to negotiate the extent of the Federation share in the EU governing bodies. In an extreme case, countries

remaining outside the Federation could refuse it the right to vote in the EU institutions, by not consenting to any amendments to the establishing treaties of the Community and the Union. If the Federation is not granted the right to vote in the Union, Federation states could participate in the Union under hitherto existing principles – as a permanent coalition – which, as a rule, would dominate the whole decision-making process. It would have many Commissioners, a large group of Euro-deputies and a significant number of votes. Paradoxically, however, such a situation would not be advantageous to the Federation. The very fact that the Federation as a political entity would be forced to participate in the work of the Union through its components (i.e. member states), would undermine the rationale and legitimisation of the institutions of the Federation. Perhaps it would render its very existence redundant. Here again, the question of the meaning of Federation resurfaces, the existence of which within the EU in particular, and perhaps its existence at all, will depend on the states remaining outside the Federation.

Federal Europe – Divided Union?

If established, the Federation might perceive itself as something more important, more momentous than the current Union. As a result, the Federation might be tempted to try to carry out its project regardless of the attitudes of the states remaining outside. One can imagine that if the Federation does not encounter any obstacles to its efficient and full participation in the activities of the Union, it would be inclined to base its integrative efforts not only upon cooperation of the police, army and diplomacy but also on the economic foundations, hitherto reserved for the European Union. One should, however, ask the question whether in such a case the avant-garde will not become transformed from the magnetic power attracting other states into a disintegrative power undermining the past achievements of integration as we know it? If we are not careful in the establishment of the Federation, it might lead to the collapse of the EU single market.

Deeper Integration and Monetary Union

I sometimes feel that we are discussing the inevitable. The full implications of the creation of monetary union in Europe have not been fully appreciated by many people in the Union. Is it conceivable to think about an avant-garde group of nations in the Union which is not identical with the members of the monetary union? And is it conceivable that monetary union is a success, without a far greater degree of integration, not only fiscal but also in other areas? A Federation which is not identical with membership in

the monetary union will endanger the monetary union itself. And that cannot be allowed to happen.

My feeling is that the monetary union will determine far greater integration within the Union and will quite naturally lead to problems with those member states which remain outside it. This is one of the reasons which has led Poland to seek entry to the monetary union very soon after accession to the European Union itself. Poland wants to be at the heart of the new Europe and, with the other member states, to build on the achievements of integration of the last half century.

Finalité of the Union and Enlargement

Poland wishes to join in the discussion opened by Minister Fischer. It wants to participate in shaping the future of Europe. We embrace the *finalité politique* of the Union. We want to be part of it, as we are part of Europe.

Enlargement is a component of the *finalité* of the Union. The Union was never conceived of as separating Europe but as bringing it together. This historical chance presents itself today. It deserves all our attention. By the end of the Portuguese Presidency in the EU (i.e. in the first half of the year 2000) Poland had put all of its negotiating positions on the table. Strangely enough, we know little about the concrete response of the EU to our very concrete and detailed negotiating positions. Without this, we cannot really negotiate.

Our efforts in preparing for membership are considerable, including the implementation of the EU *acquis*. We are supported by a strong economic development in our country. This brings us closer to EU standards and is a sign of our growing competitiveness. But we need a clear perspective for the future. Business needs this, too. As we read ever more frequently that enlargement will be delayed perhaps for several years, because the European Union is not yet ready, I am often asked why we Poles are rushing to adopt the *acquis* today when accession is not for tomorrow but the day after. Negotiating has to take on a different quality. We are sure that the EU Commission will act as a motor and shift into a different gear now that the first phase of the negotiations has been completed successfully.

Solidarity in Europe

Solidarity is one of the guiding principles of the European Union: "desiring to deepen the solidarity between their peoples" – says the preamble to the Rome treaty. All Member States have experienced this solidarity in the past. Solidarity is never one-sided.

Solidarity is also guiding the Union and the applicant states in the process of enlargement.

Solidarity is a good word for Poland. Under this banner the social movement of 1980-81 achieved its breakthrough. Under the same banner democracy returned to Poland in 1989, and under the very same banner the government of Mr Jerzy Buzek is continuing bold systemic reforms of the state.

Solidarity is a good word for Europe, parallel to partnership, another key word of European integration, which has dominated the process of integration for many years. Both solidarity and partnership impose obligations.

When it is possible to unite the whole continent through the Union, all the political forces in the Member States should rethink the notion of solidarity. We all need economic and social solidarity. The richer ones: so that they can live within friendly local communities. The poorer ones: so that they can take part in the opportunities offered. We also need political solidarity. Solidarity in supporting the development of less favoured regions, of rural areas, solidarity in ensuring territorial integrity and in safeguarding the EU external border.

May the well-tried word "partnership" become the instrument of solidarity. And may this partnership include southern countries of the present European Union with future members of its eastern confines. This should develop as a strategic partnership, whose objective is to prevent a split within the European Union into two blocs, orienting themselves into two different directions: the South looking only southward (Africa and Latin America), and the East only eastward (post-Soviet area).

Such a separation would not allow the development of the full European potential. We all gain from the experience and special relationships which the different Member States contribute to the Union. We must support each other in our initiatives. I consider it a good development when EU Mediterranean policy is carried out and is based on the centuries-long experience of the southern states of the EU. We – the North and East of Europe – will support such efforts. We should endorse the Barcelona process, supporting closer relations with countries neighbouring the European Union to the South, and supporting the development of those areas.

Simultaneously the South should not fail to notice its strategic interest in the northern and eastern dimension of the enlarged EU. I am counting on support from the countries of southern Europe for Poland's interest in the fate of the post-Soviet region. Poland's traditional links with those areas will help to

reinforce the development of free market economies, democracy and the rule of law. This is an asset for the whole Union.

In the eighties, the democratic revival in Poland was carried out under the slogan "there is no liberty without Solidarity". I believe this slogan still holds its values in the context of European integration. I believe that it can become one of the foundations of a future Federation in Europe, encompassing all Member States of the Union.

Bilateral and Trilateral Cooperation

French-German cooperation has been instrumental in developing integration. After the collapse of the projects of defence and political communities in the 1950s, it helped to create the European Economic Community, the "mother" of the European Union.

The political framework for French-German cooperation was provided by the *Traité d'Elisée* signed in 1963. Close political consultations at the highest level between Paris and Bonn were complemented by bilateral cooperation in various areas. A very important achievement of the *Traité d'Elisée* was the promotion of exchange and cooperation between young people of both countries. France and Germany put their trust in the new generation, which carried the reconciliation to a good end. Cooperation among youth and the educational institutions is also a challenge to future generations.

Much has already been done in developing relations between Poland and Germany. If there is any lesson to be learnt from history, and if we are looking for a starting-point to build from, it seems desirable to deepen cooperation within the Weimar triangle. The

cooperation within the Weimar triangle is developing remarkably well. This cooperation requires support and a new impulse. A contractual base would provide it with a different quality. Such a trilateral *Traité d'Elisée* – let us call it for example the second *Traité d'Elisée* – could develop into a new and revitalised driving force of integration.

I believe that the three countries Germany, France and Poland represent a community of interest in relation to European integration.

Conclusion

I have ranged widely, perhaps too widely, over some of the key issues which confront the EU. But I feel strongly that without a profound debate over the future of the Union we will stumble from one crisis to the next, with real dangers for the stability of our Continent.

Let us think deeply about the future of our Continent and let us seize the opportunity of the enlargement of the European Union at the same time.

The six ministers of foreign affairs of the candidate countries considered Minister Fischer's proposals to be a useful and interesting example of positive thinking targeted at the future of Europe. This position of candidate countries is still another proof contradicting the claims of those who think those countries are not ready yet to discuss the development of integration, that they are too involved in the process of harmonisation with the *acquis communautaire*. I hope that this article will also contribute to the repudiation of this cliché. Poland does not solely wish to enter Europe. Poles want to talk about its future.

Phedon Nicolaides*

The Problem of Effective Implementation of EU Rules: an Institutional Solution

In June 2000, the Feira European Council declared that the countries that had applied for membership of the European Union would have to implement effectively and enforce the *acquis communautaire* (i.e. the body of EU rules and practice) before they would be able to conclude their negotiations for accession

to the EU. In December 2000, the General Affairs Council stated that the development of capacity for implementation and enforcement of EU rules had become one of the most important issues in the accession negotiations.

The issue of "effective implementing capacity" now attracts far more attention than the mere single-sentence mention it received for the first time in the Madrid European Council conclusions of December

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