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From the Outside looking Inside: Perceptions of an Enlarged European Union

by Thomas W. G. Schmidt, President of the Young Swiss People's Party (Junge SVP),
Bern, Swiss Confederation

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The purpose of this brief presentation is to unveil some institutional weaknesses of the European Union being a non state struggling desperately with its own future entity. As a Swiss, living on the roof of our wonderful continent in a pluricultural country, where three of the major European cultures coexist in a constructive and peaceful society, as a citizen of a country celebrating its unity through its diversity, I'm truly a genuine European. I have always been one, but I vehemently oppose any attempt to identify the EU automatically with Europe.

First of all, let's have a look how the EU is actually governed bearing in mind that you already know most of it. But there are some details that I wish to highlight in particular. Here one observation is very important. The EU is legally a non-state, nothing more than a regional organisation based on legally binding instruments. Actually the EU is neither a Confederation nor a Federal State. This is where the problem starts. I suspect that the EU was intentionally constructed in this way. And the recently published draft for an European Constitution does unfortunately confirm my fears. This elaborate once more demonstrates the lack of a clear idea about the goal to reach and the means and measures to reach that goal among the European political streams.

First, the EU should have been able to define, to establish and to implement the basic pillars of a modern democracy, which is unfortunately and alarmingly not yet the case: Nowadays we have to deal with an EU which is ignoring the basic „Montesquieu“ principle and requirement for a democracy: the clear and strict separation of executive, legislative and judicative powers. Also, in a healthy democracy, the legislative body should be the parliament which must be elected by the people. The EU fails twice, bearing in mind that firstly the legislative body is not the EU-Parliament but a cacophony of European Commission and the Council of Ministers, secondly: both aforementioned bodies are not elected by the people but sent from the different capitals to Brussels. Nevertheless, Brussels grasps more and more competences from the member states through extension of the Acquis Communautaire and EU-regulations, being an intransparent "politbureau" since most decisions are taken in committees, councils and

commissions disclosed from the public eye. It is rather embarrassing that my choice of words could be reminiscent of a no longer existing system.

Why is the EU not a Federal-State? A European Federal-State would require a legislative assembly summoned by the people, a constitution, an elected European government. This would mean that a new sovereign power would then arise: The European Federal-State. The Germans are in favour of such a Federal-State. Whether this is right or wrong, practicable or not, is a very different question. Personally I don't think it is feasible because a Federal state, a sovereign state, requires an electorate in Europe capable of communicating with one other by means of a common language.

A Confederation of States as De Gaulle and also Adenauer envisaged might be an alternative. But, this Confederation would of course render the entire EU-Commission in Brussels as well as the entire bureaucracy with its 20,000 employees superfluous. This could be a sustainable solution for Europe, since all States would remain sovereign, working together as closely as possible, but as full-fledged states in full respect of their diversity.

However, neither a Federal-State system, nor the Confederation of States has been chosen, but instead what I call the juridical thing was chosen. And in the end what we have is the situation today, a Europe that is not democratic but that is governed by councils, commissions and committees, by an elitist „happy few“, enclosed in bureaucratic ivory towers, far away of the real world of needs and urges of the Irish fisherman, the Polish steelworker or the Greek goat farmer of the Peloponnes, actually, of the European citizen which has strictly nothing to say except to send once every 4 years politicians to its capital and Brussels, who often are not even doing or being able to do their job. You may call me a polemicist? Here is an example.

When the Maastricht Treaty and the Treaty of Nice were being voted upon in the German federal parliament, the majority of the MP's did not read the documents in details beforehand; they did not know what was in them. And that is understandable since nobody has the time to do so. The only question is whether this total incomprehensibility is deliberate or just accidental. After all, confusion and the creation of chaos are established military strategies. Is that an example of good governance? Is this a valid option for the future of our continent?

If now the EU would submit an application to become a member of itself, it would certainly be turned down. Why? Because according to its own criteria only democratic countries can be accepted. The EU would not be accepted because within it what we normally regard as the essentials of democracy are turned upside down as I mentioned already before. Once more: it is not just the traditional separation of powers between the executive, the legislature and the judiciary, which is largely set aside; the EU goes one better: those who make the laws are members of the executive. Moreover the executive itself, namely the Commission, consists of people who are appointed, not elected

What all comes out of Brussels? First of all there are the directives and guidelines. These are important, naturally also for non-EU member States Switzerland, since the directive is the strongest form of European lawmaking. A Directive which comes out of Brussels must immediately be put into effect in the whole of the EU. There is no further

discussion, no referendum. Even the most eurosceptical member-states have never dared to just set aside a directive. Directives are issued without the normal parliamentary procedures. This is because - and please do not lose sight of this - the European Parliament does not have the right to initiate legislation. And thereby, naturally, it lacks an essential precondition for a proper parliament. After the directives come guidelines, and they are a bit different. When a guideline comes out of Brussels, it is an obligation for the national parliaments to translate it into national law. That means that the parliaments of the member States must be convened, examine the guideline, and transform it into a national law. At most, there is voluntary obstruction or delay, which soon brings a reprimand from Brussels saying, 'Get on with it!' Jacques Delors, the former powerful President of the Commission, once claimed that if we had proceeded along democratic lines, we would never have got as far as we have. He also once said that 50% of all laws in the EU come out of Brussels and 80% of all economic laws. And of course the economic laws are by no means the least important. What does this mean in plain English? He not only admits that the EU has been pushed forward in ruling out the basic principles of democracy, but also emphasises that fifty or eighty percent of the laws enacted by the elected representatives in the national parliaments have been nullified. Naturally I often wonder if perhaps I am taking too pessimistic or too dramatic a view of all this. However you should consider that a tiny Swiss citizen outside of the EU has the basic-democratic right to control his government and parliament by ballot on any topic supported by a majority of the Swiss people in using its rights of referendum and constitutional amendment-initiative. Now, if Switzerland would become a member of the EU, the direct-democratical procedures would be overruled by Brussels. This would mean for Switzerland a big step backwards, away from the organic and sustainable evolution of a modern society, away from good governance, transparency and sharing of power, self-responsibility and individual freedom, features which characterise the Swiss Confederation.

Secondly, I would like to touch upon the future, the East-Enlargement of the EU. The East enlargement of an European Union, which basically is confronted already nowadays with almost unsurmountable problems either of institutional or operational nature will probably not resist the accession-shock of the former communist countries of Eastern-Europe. In May 2000 at the Humboldt-University in Berlin, German Foreign Minister Joschka Fischer outlined his vision of Europe. He spoke about a European federation, a European Constitution, an elected European Presidency and a European parliament with real powers. Except the parliament with real powers, Fischers vision became true, as we could observe recently on the Thessaloniki EU-meeting.

Fischer said textually: "So if the alternative for the EU in the face of the irrefutable challenge posed by eastern enlargement is indeed either erosion or integration, and if clinging to a federation of states would mean standstill with all its negative repercussions, then, under pressure from the conditions and the crises provoked by them, the EU will at some time within the next ten years be confronted with this alternative: will a majority of member states take the leap into full integration and agree on a European constitution? Or, if that doesn't happen, will a smaller group of member states take this route as an avant-garde, i.e. will a centre of gravity emerge comprising a few member states which are staunchly committed to the European ideal and are in a position to push ahead with political integration?" In other words, before the European Union admits any new members, its institutions would need to be consolidated in order

to allow a European avant-garde of states setting policy for the rest of the Continent. While some countries will be dawdling, others will be busily establishing the future shape of institutions that everyone will have to accept at some point anyway. Is this really a vision for the future of Europe?

On the EU-side, important reforms creating the necessary conditions to integrate the eastern nations in the EU have not been performed. On the side of the member states, the readiness for accession is not reached yet, partially due to the difficult situation of the world economy slowing down even more the recovery of those former collectivist economies. Also, the expectations of the populations are excessively high. Not only they believe that massive financial transfers of the cohesion fund will immediately improve their daily live, but also that they may delegate the solutions of all their internal problems to the EU. As a matter of fact, the EU will not and cannot meet those expectations, which will induce bitterness and deception among the new members. They will furthermore have to follow the rigid convergence criteria to qualify for the Euro. Most of the successful, prosperous economies had found those conditions extraordinarily onerous. How much more burdensome would they be for the former collectivist economies e.g. of Poland, Hungary and the Czech Republic? And finally the new members would not have the power to veto EU policies they will not like, as the new constitutional draft replaces the veto by majority vote on most topics. Both sides are challenged by several dysfunctions in the enlarged European Union:

- The absence of a real common European spirit and will
- The absence of a predefined common goal to reach
- The absence of a truly democratic control of the EU-institutions
- The deep gap among the EU-institutions and the people's of Europe
- The absence of integrity and honesty among a significant number of European leaders
- The spread of corruption and criminal behaviour at highest European and national level.
- An incredibly inflexible, chaotically and inefficient European administration.

Which are under those unpleasant circumstances the different scenarios for the coming years?

Bearing in mind the symptomatic inertia and the absence of willingness to proceed to the necessary reforms, the EU is confronted to the most critical point of her existence: If the East-Enlargement of the European Union will be moved on with this ambitious schedule and without the necessary preliminary conditions, the European Union could stall completely within the next years. Social upheaval induced by institutional and financial collapse may lead the union through strong centrifugal forces close to its total disintegration.

The point of culmination behind this evolution is not necessarily the result of a negative attitude towards the EU, but it can be outlined considering the antagonist mechanism of "integration in depth" versus "integration in width": The more you enlarge the EU, the less the harmonisation of rules and regulations would be feasible. By imposing the combination of widening and deepening, unavoidable tensions may arise and induct an irreversible process of continental debacle dismantling the EU-system and reshuffling the face of the continent.

To avoid this the EU should seize down in order to be not little more than a loose association based on free trade and absolute national sovereignty, like the EFTA which was very successful until the majority of their former members left for the EU. In this scenario, accession requirements would be relaxed as the looser the organisation is, the less harmonisation is needed and thus, eastern expansion would be facilitated. Nowadays this seems to be an extremely unlikely eventuality in the eyes of any EU-supporter, as it would mean to entirely dismantle the work to date of the EU and renationalise issues which are better performed at national or regional level. But once the results of years of bad governance and ideological shadow fights within the EU will shake the EU-foundations at the point of making them crumbling, the Euro-sceptics would garner enough public support to create the political will to do so.

The conclusions of this brief outline are in my view rather positive: The problems of the East-enlargement give us a unique chance to reconsider the goal and the character of the EU. One thing seems clear to me however: The actual centralist and dirigist EU-Model, result of the cold war and the now dismantled technocratic socialism is nothing more than a sad remnant of the past century, unable to provide answers to the challenges of today's globalisation and the exigencies of a new multilateralism based on the principle of equality between states. After this conclusion one may ask himself whether the framework of WTO would be perhaps the appropriate forum in order to tackle precisely the new challenges of the future.

Small states – as Switzerland – would then better preserve their national interests in participating to such international fora in which fundamental rights for instance, national sovereignty and the equality between states as well as economical freedom are better respected.