

'Nice is just the beginning' from Die Zeit (7 December 2000)

Caption: On 7 December 2000, the German weekly newspaper Die Zeit analyses the political and institutional implications of the Nice European Summit (7, 8 and 9 December) and outlines the way in which the European Union will operate in the future.

Source: Die Zeit. 07.12.2000, n° 50. Hamburg. "Nizza ist nur der Anfang", auteur:Fritz-Vannahme, Joachim, p. 3.

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Last updated: 05/07/2016

Nice is just the beginning

What Europe needs next is a constitution — and there is no shortage of ideas on that score

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Down in Nice, the nights are getting longer. At their summit meeting there this weekend, the Heads of State or Government of the European Union will be wrestling with the issues of BSE prevention, the future numerical strength of the Commission, the distribution of votes and division of powers among the Member States, and dealings with the applicant countries. When all the talking is done, they will present whatever they decide to call their final document as a major success, a decisive step forward or even a historic breakthrough.

Three questions are notable by their absence from the agenda for this European Council meeting on the Côte d'Azur. Where is Europe heading? What sort of Europe will it be? And how much 'Europe' do we actually want? They are, nonetheless, pressing questions, and they will be asked again just as soon as the curtain falls on the Summit. Some of those who will be arguing long into the night in Nice have already begun, in recent months, to attempt to tease out answers: Belgium's Guy Verhofstadt and Finland's Paavo Lipponen, for example; Italy's Carlo Ciampi, Britain's Tony Blair, Jacques Chirac of France and of course Germany's Joschka Fischer. They have been voicing ideas that are already the focus of many reports, ministerial discussions and think-tank meetings.

Even now, we can begin to see what has to happen after Nice, and Chancellor Gerhard Schröder is already talking about the 'post-Nice process'. Seen in this light, the Summit may in fact be an epilogue. It brings to a close the European cycle of the 1990s, a cycle that began auspiciously in Maastricht, almost ground to a halt in Amsterdam and now needs to end with agreement in Nice — both in order to pave the way for enlargement and to save itself from ridicule. Weighting of votes, decision-making by qualified majority, the numerical strength of the Commission — the institutional machinery of European power is complex and often hard to explain. It must be so — but there must be more to it than that. Already in Nice, the ground is being prepared for the introduction of new arrangements. In future, everything is to be clearer, more straightforward and more easily comprehensible — in the interests of legitimacy and democracy. An inspiring and exciting ambition, if ever there was one! The aim is to restore Europe's reputation among its own citizens. That is what the three questions are all about, and that is why there are many answers. The political leaders are setting out their stalls. They want to make Europe an attractive proposition — alluring rather than esoteric. Such at least is the hope among those now engaged in forward thinking on the subject.

Fischer wants a second chamber in order to reinforce democracy

Democratic legitimacy at the core of the Union is only skin deep, complained Belgium's Liberal Prime Minister in his address to the European Policy Centre in Brussels in September. Mr Verhofstadt blamed the problem on two factors. The first was the weakness of European political parties, which were effectively non-existent, give or take the Socialist International and the European People's Party. The other was the 'European Parliament's current structure and position'. To improve the situation, the Belgian leader advocated the introduction of a second chamber, an idea that Joschka Fischer had outlined at Berlin's Humboldt University in May and developed further in a speech to Belgian MPs in November. According to the German Foreign Minister, the way to overcome the Union's democratic deficit was to strengthen the European Parliament, and: 'the solution could lie in a two-chamber system with a first, European, chamber directly elected by popular vote, and a second chamber of the nations. The latter would be the guarantor of subsidiarity, and there would thus be no contradiction between the national and European levels, between nation state and Europe.'

Fischer's idea has since been echoed by many Britons — albeit not by die-hard anti-European Conservatives, but certainly by Europe-minded Tories like EU Commissioner Chris Patten and by Labour Prime Minister Tony Blair. Speaking in Warsaw in October, Mr Blair envisaged any second chamber — with a membership representing national parliaments — functioning as a sort of review body. The day-to-day business of

legislation, on the other hand, would continue to be done by the European Parliament. In an interview with *Die Zeit*, Chris Patten subsequently made the point that there is no ‘European electorate’. For that reason, he said, the representatives of the respective national electorates needed to be much more closely involved in the decision-making process. Patten further advocated that the second chamber should have a role in the election of the members of the Commission and its President.

Admittedly, these are the views of two Britons plainly dismayed by the blind and often angry way in which most of their compatriots reject Europe. Might the second chamber have an educational role to play in countering stubborn insularity? For Blair and Patten, that might well be a consideration. Finnish Premier Paavo Lipponen, on the other hand, would be wary of any such notion. In the few short years since Finland’s accession to the EU, the Finns have proved that, even in sceptical Scandinavia, people can adapt to and become involved in the Union.

Addressing the venerable College of Europe in Bruges in mid-November, Lipponen voiced his thoughts about the post-Nice era. ‘After all, the development of the Union will not stop with the Nice Treaty or with enlargement.’ The changed situation in the world made that inevitable. And he went on to urge an end to the familiar ‘top-down’ way of getting things done, arguing that people in Europe were alienated from the Union by a lack of democratic legitimacy. The further Europe moved towards integration, the more important it was to determine who was responsible for what. That required a Constitution — and also a Council in which equality among the Member States would be permanently secured.

What Lipponen advocates would result in a second chamber along the lines of the US Senate. Each American State, irrespective of its population, sends two representatives to the Senate. In a future Council of the European Union modelled on the Finnish concept, each Member State would have a single vote — which would, at a stroke, turn the Union into a new type of Confederation, although Lipponen preferred not to mention that aspect of his scenario. Belgium’s Guy Verhofstadt is another politician sympathetic to a Senate-style solution. Echoing Joschka Fischer, however, he did not rule out the possibility of an alternative approach to ‘sovereignty sharing’ between the Union and its Member States, namely through a second chamber modelled on the German Bundesrat, in which voting strengths reflect population size.

In this way, in the run up to Nice, both Fischer and Lipponen have chosen to jump ahead in their thinking. The fact is that all parties at the Summit, including the Germans and Finns, will join battle on the issue of the weighting of votes, i.e. striking a fair imbalance among the larger Member States. Whatever solution is adopted, the concept of equality among nations as urged by Lipponen will certainly not be on the menu at Nice and, indeed, will meet with resistance from many of the large Member States.

Fifteen governments tackled the BSE scandal in fifteen different ways

Admittedly, Lipponen has not gone too deeply into the issue of changes in the rules of play between Council, Commission and Parliament. Fischer, on the other hand, addressing the Belgian MPs in November, renewed his proposal either to develop the European Council (the three-monthly gathering of Heads of State or Government) into a fully fledged government, or to have a directly elected President of the Commission with wide-ranging executive powers. Downing Street dismissed any such suggestions as untimely, and the British tabloids rose up in arms at the prospect of a ‘superstate’.

Chris Patten warned that moves to have the Commission President directly elected would encounter strong opposition not only in the UK, and there were piqued reactions from Sweden, Denmark and even Spain. Tony Blair then took a more cautious line when he made Fischer’s other idea a focal point of his Warsaw speech: the European Council, he said, should be better organised and ‘just as governments [do]’ should ‘go before the electorate and set out [its] agenda for the coming years’. Of course, Blair is not contemplating a Council voted in by a European electorate. Intergovernmental ‘cooperation’ is what he stresses, not supranational integration. His flies the flag for what he calls a ‘*pooling of sovereignty*’, as distinct from any transfer of national sovereignty to European level.

Blair dreams of turning Europe into a ‘superpower’, but he distances himself from the nightmare of a

‘superstate’ as symbolised by a mighty Commission. Rather than launching into ‘abstract discussion about institutional change’, he wants to see Europe attending to practical issues such as the internal market or agricultural reform, employment, crime or foreign and security policy. It cannot escape the Prime Minister’s attention that, in recent weeks, cooperation has been noticeably lacking — in relation to the scandal of BSE, for example, or the reaction to oil prices. On these issues, the 15 governments of the Member States chose to take 15 different approaches; when they did reach agreement, it was too late. The alternative scenario to cooperation is not, therefore, integration but rather the go-it-alone approach.

Blair has countered that his proposal for the Council is not intended to weaken the Commission in any way. Nonetheless, Britain would be quite content to see the powers of the latter confined to what is laid down in the existing Treaties. Yet Blair did at least give the Commission a mention, which was more than French President Jacques Chirac did in his address to the Bundestag, as he outlined his desire to see a smaller ‘pioneer’ group of EU Member States forging ahead with closer cooperation.

Belgium’s Guy Verhofstadt reckons that he has found a way of squaring the circle. He believes that the direct election of the President of the Commission would lend the entire European project greater legitimacy. Can that be achieved so easily, though? Once he has been elected, to whom will the President be answerable — the Council, which, to date, has been responsible for making the appointment to the post, or the European Parliament, which has been consulted but has not been party to the decision? French Foreign Minister Hubert Védrine raised a key question in this regard after Joschka Fischer’s Humboldt University speech (and sadly, like many of his compatriots, he had no answers of his own). Those who advocate that a future European Government should be modelled on the Commission, Védrine pointed out, would ‘inevitably have to address the same problems that we face today, namely those of legitimacy, transparency, efficiency and political scrutiny’. And ultimately, what parliament would supervise this federal government? The European Parliament in its current form? The national parliaments? A European Parliament with two chambers? Védrine, too, is keen to promote thinking about a better Europe. The problem, as he admits himself, is that the objections to change which he has identified already apply today. Lack of legitimacy and transparency and an all-too-evident absence of political supervision on the part of the Council are already contributing to loss of respect for the European Union. Doing nothing, or merely oiling the existing political machinery, will not change that situation.

What — to echo de Tocqueville — can lend a sense of direction to the public spirit in Europe today, what can imbue its laws with real force, its rulers with fresh principles and its citizens with specific expectations and patterns of behaviour? Where is the creative principle in Europe? Democracy found expression years ago in the nation states: it has no need of ‘Europe’. To complicate the situation further, many good citizens (by no means all of them British) see democracy and Europe as contradictory concepts — an argument that recurs in the speeches and ideas of all the political figures whom we have mentioned.

Is the creative principle to be found in the quest for a constitution, in the call for a division of responsibilities between Europe, the nation states and (in so far as they exist as democratic entities) the regions and municipalities? Is it really as simple as that? One might well think so, given the interest, and indeed enthusiasm, with which the various elites have greeted the newly opened debate. Yet credibility wanes when we consider the catalogue of issues on which ‘Brussels’ has taken flak in very recent months: from the BSE scandal (which began with a failure and an attempted cover-up on the part of a national government) to the tribulations of the euro (which the blithely self-confident politicians of 11 countries chose to elevate to the equivalent of the dollar, rather than giving it the market support it needed). Surely what all this demonstrates is not so much a lack of transparency as a lack of efficiency?

Modern democracies are measured with the yardsticks of both transparency and efficiency — and the European Union has problems with both. To what extent will these be compounded when it has between 20 and 30 Member States? And how much harder will it all be when the new debate begins in earnest and moves outside the realm of political speechmaking? It is currently being stressed on all sides that the ‘post-Nice process’ cannot be allowed to complicate or delay the imminent enlargement of the Union. But the Treaty of Nice itself will have to be ratified by all 15 national parliaments of the Member States as well as by the European Parliament. And the same hurdle will rightly face the much more ambitious types of project being

outlined by the likes of Fischer and Verhofstadt.

With regard to a European Constitution, Italian President Carlo Ciampi and Johannes Rau have both urged that the question now should be how to design one, rather than whether we need one. But who will be parties to that debate? Just the Council, Commission and Parliament? Or — a better scenario — will all the national parliaments be involved simultaneously, leaving room at an early stage for contradictions and encouragement, for alerting the public at national level and taking soundings for a majority in favour of ratification? And how should (all or some of) the applicant countries be involved in the process?

The German Government has proposed that the next Intergovernmental Conference should take place in 2004. The choice of date reflects both ambition and self-interest. Ratification of the Nice Treaty will scarcely be completed before 2002, and there will then follow a presidential election in France and a federal parliamentary election in Germany. Allowing more time for the European debate could result in a loss of impetus and push the whole process dangerously close to 2006, the year in which a new and undoubtedly costly financial perspective for the enlarged Europe will have to be negotiated.

So there is method in the approach being advocated, at least with regard to timetabling. In other respects, however, the likely procedure for this discussion about a constitution and responsibilities — for the ‘post-Nice process’ — remains very sketchy.

A constitution is to freedom what a grammar is to language, so wrote the British-born campaigner for American independence, Thomas Paine. And that must surely be the measure of any achievement post-Nice. Europe needs a comprehensible political language and a clear system of institutions. A ‘grammar of freedom’ neatly sums it up.