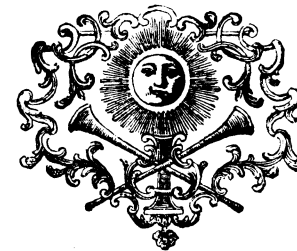


THE FEDERALIST

a political review

To look for a continuation of harmony between a number of independent unconnected sovereignties situated in the same neighbourhood, would be to disregard the uniform course of human events and to set at defiance the accumulated experience of ages.

Hamilton, The Federalist



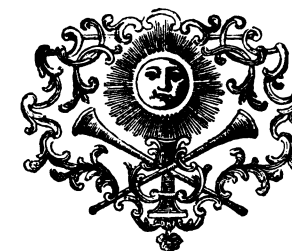
YEAR XXXVI, 1994, NUMBER 1

THE FEDERALIST

a political review

Editor: Mario Albertini

The Federalist was founded in 1959 by a group of members of the Movimento federalista europeo and is now published in English and Italian. The review is based on the principles of federalism, on the rejection of any exclusive concept of the nation and on the hypothesis that the supranational era of the history of mankind has begun. The primary value *The Federalist* aims to serve is peace.



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Enlarging the European Union

The process of enlarging the European Union to Austria, Finland, Norway and Sweden, which has gathered pace considerably following the December 1993 Lisbon Summit, has generated contradictions among the Twelve that have forcefully revived the issue of the Union's institutional reform.

Prior to Lisbon, the great majority of member state governments seemed to be aware of the danger that widening the Union to sixteen members, without profound structural change, would lead to its dilution into a mere free trade area, and thereby its end as a political project. The decision-making mechanism of post-Maastricht Europe was already too complicated and confused to provide the Union of Twelve with an effective capacity for action. The inability of Europe to react effectively to both the Yugoslav crisis and the challenge of unemployment has demonstrated this all too clearly. An increase in the number of member states involved, and the impact of the new and disparate demands which each of the candidate countries would have made on the Union's institutions, would have caused its decision-making process, already difficult and ineffective, to risk total paralysis. As a result, the majority of member states seemed to share the belief that enlargement should be preceded, or at least accompanied, by reform of the Union's institutions to ensure greater cohesion and more democracy.

Yet institutional reform proved to be complicated and controversial, while pure and simple enlargement was, at least on the surface, the easier solution. A solution, which, moreover, was strongly backed by Great Britain, with the declared intention of diluting the Community. This solution was also backed by Germany, which, while it would probably have accepted institutional reform if it had not delayed the inclusion of the candidate countries, was nevertheless in a hurry to conclude this first stage in the process of enlargement, since it would have brought into the Union countries inclined to support her line in economic and monetary decisions; while it would also have opened the way to the inclusion of

Central and East European countries in the German sphere of influence, and in this election year, could have been presented to German public opinion as a government success.

* * *

Hence the negotiations proceeded apace, and were rapidly concluded. But initial difficulties immediately presented themselves. Certainly, the "blocking minority" issue raised by Great Britain and Spain, which has delayed the conclusion of the negotiations, was not of itself very important. Decisions taken in the Union framework are basically intergovernmental in nature, and hence are usually the result of compromises, which are reached without recourse to a vote. The governments that backed the extension of the blocking minority from 23 to 27 weighted votes do not deserve to be considered champions of the political unification of Europe for this measure. Moreover, it is difficult to disagree entirely with the Spanish government when it asserts that until the Union's decision-making process is made democratic, it is wrong and dangerous that an important decision can be taken against the will of governments that represent more than 100 million citizens.

There remains the fact that this controversy indicates that enlargement, rather than being the opportunity for increasing cohesion among member states, and for greater democratisation of the Union's institutions, has produced as its first consequence a greater burdening of the Union's decision-making procedures. The mechanisms agreed on at Maastricht, while granting the Union's institutions a largely insufficient governmental capacity, were accepted by many as a transitional solution in light of the reforms set for 1996. But the fact that the entrance of four new states is to be accompanied by a further, however small, worsening of the Union's capacity to take decisions and guarantee its own cohesion, creates considerable uncertainty about the prospects of the intergovernmental conference provided for in the Maastricht Treaty. Nevertheless, it can legitimately be argued that it was not necessary to await this small institutional crisis to recognise that such a situation exists. The consistent attitude of Great Britain and Denmark over the years, as well as that of the four countries about to join the Twelve, towards any project to increase democracy in the Union should be more than enough to convince anyone willing to accept reality that, *without a bold and fundamentally new initiative*, no satisfactory agreement will be forthcoming in 1996.

* * *

Yet, for some of the Union's member state governments and for the European Parliament, however weak the European commitment of both these actors may be, this ongoing situation is difficult to accept, since the Union, despite the degree of interdependence of interests that its progress has so far given rise to, needs to be governed. And if this growing *need* to be governed is matched by an ever lesser *capacity* to govern, it is reasonable to predict that the Union's institutional reform issue will be continually revived by the force of circumstances.

The attitude of the European Parliament is a symptom of this situation. Having ingloriously thrown in the towel over the vote on Fernand Herman's constitutional project, it has had a start of pride over the obstructionism of Spain and Great Britain regarding the blocking minority issue. As regards the ambiguous compromise reached at Ioannina, the Parliament has made it be known through a number of its senior members that it will not approve the membership treaties in their current form, without which they can not become law.

Yet the European Parliament will not be able to maintain this attitude for long in the absence of a concrete alternative able to turn its refusal to approve into part of a more wide-ranging strategy, one that is not defensive and conservative, but open and innovative, and carried forward by a line-up that includes other actors. In this way, the European Parliament would be given confidence from not feeling isolated from national political forces and from some of the governments and parliaments of the member states. If this does not occur, the Parliament's resistance will be short-lived, and will be abandoned in the face of pressure from the governments, in exchange for some small concession.

* * *

But the problem extends well beyond the European Parliament's approval of the four candidate countries' membership treaties. It involves fully accepting the fact that enlargement is in any case an unstoppable process, testimony to the Union's powers of attraction. Moreover, in so far as the Union will turn eastwards, this will represent the natural conclusion of the events of '89, and the realisation of citizens' aspirations in the weak democracies of Eastern Europe. The attitude of those who hope to oppose this trend with the sole aim of preserving the present extremely limited governmental capacity of the Union's institutions must therefore be decisively rejected as meaningless and reactionary, and hence lacking a future. What is required in this context, then, is the

elaboration of a strategy which allows, on the one hand, not only to prevent the slowing-down of, but moreover to accelerate the process of enlarging the Union; and, on the other, to launch decisively institutional change in a democratic and federal sense. Satisfying both these requirements is possible: but, in the current situation, it seems only possible if there exists the courage to recognise that the second of the two objectives can not be pursued in this initial phase, except in a framework that is not only more restricted than an enlarged Union, but even the Union of Twelve. The maturity of public opinion regarding Europe, and the openness of politicians to the issue of democratic reform of the Community's institutions is still very different from one European country to the next, whether a particular country is a member of the Union itself or not. Thus it is virtually impossible that the proposal to federalise the Union will be peacefully accepted and unanimously agreed on either by a future Sixteen, or even the current Twelve. In this light, it is necessary to launch a process that will involve an increasing number of countries, starting from an initial restricted core. This requires the initiative of a very limited group of governments, or one alone, or the Commission, with the active support of the European Parliament.

This initiative must consist of a proposal, aimed at all potentially interested member states, to charge the European Parliament with the task of drawing up, in conjunction with the national parliaments and other Union institutions, a project for the Union's institutional reform that should include at least the minimum requirements for a federal constitution. But this project should also contain a series of arrangements that ensure the *compatibility* of the federal institutions that will be created by the countries willing to accept them, with the institutions of the current Union, which will continue to function, and which will guarantee that countries unwilling, or not yet willing, to accept the federal obligation, will nevertheless have the possibility of continuing to enjoy the rights that derive from Union membership. In other words, this would mean creating a *Europe of concentric circles*, comprised of a central federal core and a ring of countries which would continue, along with the federal core, to form part of the Union in its present form, or in perhaps a diluted form if they so chose, with the guarantee of being able to join the federal core at any time, as and when they decided to accept its constitution.

This is not the place to go into the details of the problems which a proposal of this kind would lead to, both from an institutional viewpoint and that of the distribution of competences between the federal core and Union. These are problems that lawyers will apply themselves to resolv-

ing. In any case, it is certain that the real difficulties the plan will have to overcome will not be technical ones, but political. Such problems consist of the resistance of countries that are opposed to any change of the Union in a federal sense, and which would undoubtedly not be placated by a guarantee to preserve the *acquis communautaire*, and would similarly refuse to be excluded from the core, which is set to acquire real capacity for action, and hence to condition their decisions even though they would be basically excluded from its decision-making mechanisms.

* * *

Yet these difficulties while real, are superable. If some Union member states (hypothetically, the six founding members, plus perhaps Spain), managed, with the support of the European Parliament, to bind themselves firmly to the structure of a Europe of concentric circles, they would immediately find allies both among some of the governments and public opinions of Western European countries, and among the more mature sections of public opinion in opposing countries, which would understand clearly that the goal of the project would not be to exclude countries of the second ring from joining the process, but that of in effect making their rapid adherence to the federation possible. And to this should be added an even more important consideration. A democratic and federal institutional reform project would mobilise, in favourably-disposed countries, the pro-European feelings of their citizens, which have always been there, but which have not been given the possibility of expression, and which have in fact often been transformed into hostility towards the involved and bureaucratic arrangements of the Maastricht Treaty. This would put favourably-disposed governments in a strong negotiating position, while weakening that of opposing governments, which would find themselves in the position of having to justify to their public opinions their rejection of a proposal which would require of them only to allow others to proceed, without themselves being obliged to renounce any of their rights, nor compromise their legitimate interests. It should not be forgotten that the most pro-Europe section of the British political class and press never ceases to highlight, in an effort to dissuade the government from persisting in its negative attitude towards any and all progress towards European political unification, the prospect of the possible exclusion of the United Kingdom from a process that is nevertheless destined to proceed, with or without her participation. It is hence possible to predict that the proposal for a Europe of concentric circles, if it were

to become a political reality, would provoke a heated political debate within Great Britain itself.

* * *

The proposal of a Europe of concentric circles around a federal core would therefore not guarantee that a split between countries for and against the federal perspective would be avoided. However it would enable the former to approach this split, if such a split proved inevitable, in a position of strength (and would thus increase the possibilities for avoiding it *in extremis*). Yet, these considerations do not provide an answer to two crucial issues. First, whether there actually exists a core of states that is able to express its determination to accept the proposal, and to support it in the face of opposition from the other, or some of the other member states, even to the point of causing a split, or the threat of a split, without giving in to the natural temptation to reach compromises that would turn the process back on itself. Second, whether the European Parliament, following its recent discouraging displays of timidity, is able to battle decisively for the success of this scheme.

These questions are moreover tied up with a further one: whether, in a period in which nationalism seems to have been resurrected all over Europe, there still exists in the public opinions of certain countries sufficient moral energy waiting to be mobilised, by the political forces whose task it is to express it, for a grand project for the future, which has as its real objective the political union of Europe. Because if one thing is clear, given the level of development which the process of European unification has so far reached, it is that Europe will not be made without political struggle, without a grand mobilisation of public opinion, in other words without the entrance into play of an actor whose presence has so far been only potential: the European people, the holder of constituent power. Yet if it is the case, as indeed it is, that the European federation is currently more needed than ever, these moral energies *must* be available, and the existence of the European people must be ready to leave the virtual state and become reality.

Hence, even if only virtually, there currently exists both the project, and the agent which can realise it. The *occasion* that can spark the constituent process off still has to be identified. This occasion can be none other than an *institutional crisis*, or a series of institutional crises, since, as long as the problems of co-habitation among the Union's member states can be resolved by compromise, the governments will continue to

use this approach, and the European federation will remain an ideal objective destined to be perpetually delayed to a distant and indefinite future. Yet it is also true that the small crisis arising from the blocking minority issue could be only the first in a series of increasingly serious conflicts, and that the enlargement of the Union could lead within a short space of time to institutional *stalemates* that can not be resolved without radical decisions. For this reason the 1996 deadline could be decisive. The federalists should therefore prepare themselves for a phase of their struggle which will be both full of dangers, but also rich in possibilities.

The Federalist

The Future of Schools in the Age of the Scientific Mode of Production and World Unification

FRANCO SPOLTORE

1. Schools and the new challenges

The challenge of the scientific and technological revolution.

All over the world school is at the centre of a process of profound social and institutional transformation. This process began at least twenty years ago, when the first effects of the scientific and technological revolution, and of the internationalisation of the economy, manifested themselves in industrialised countries. The education system inherited from the industrial mode of production and from the nationalistic formulation of education policies is simply marking time in the face of growing unemployment, increased leisure and the importance of the growing circulation of information compared to the production of material goods. The system which in the course of the previous century favoured the progressive mass schooling of industrial societies, affirming a model of instruction subordinated to productive needs and *raison d'état*, is now proving increasingly inadequate, not only for the generations who are facing the world of work for the first time, but also for those who need to retrain professionally, or to raise their level of education. Faced with this challenge, neither the decentralised and mixed (public, private) school systems (the Anglo-Saxon type) nor the centralised systems (the Napoleonic type) are able to solve the contradiction which has come about between the educational values to which the school is always obliged to refer, and the content which it must import.

The challenge of leisure.

We are entering an age in which a new conception of time dedicated to work and time dedicated to leisure is being established, yet state

education policies are still modelled on the basis of the requirements of the Taylor-Ford mode of production.

With the spread of the scientific mode of production, work can no longer be evaluated in relation to man-machine yield per hour.¹ The new touchstone of civilisation has become free time. Production becomes efficient to the extent that it frees man from dedicating himself to material production at the expense of planning, projecting, control and information management. In this context, truly productive employment is that which increases the average level of education and training in society, so as to multiply the opportunities to exploit and improve scientific and technological innovations, and not that which aims at the exploitation of labour. In a situation in which progress in productivity can be achieved without increasing the number of jobs, and in which in any case the more advanced countries cannot compete with the developing countries in mass production with minimal labour costs, school often is the scapegoat for intellectual unemployment according to this criticism there are too many young people studying with respect to the actual requirements and for the national economies lack of competitiveness. But is it really necessary to limit access to education?

In the first few decades of the nineteenth century, the average worker or peasant succeeded in increasing his productivity by 0.3% every year. At the end of the century, productivity for these groups grew six times as fast.² With the current rates of annual increase in productivity (about 3%), it should already be possible in most of Europe to reduce the working week to four days without any diminution of goods produced. If this has not happened yet, it is because politics and the economics have not yet succeeded in adjusting to the profound change in the mode of production which we see today. The crisis in school is thus rooted in the crisis in politics and the economics. While in traditional industrial development, school and education as a rule represented a specific moment, limited in time, in the educational process of individuals, in the current phase of development based on intensive recourse to science and technology, education has become a permanent element in the new mode of production. It must become, in other words, the instrument through which to reconcile specialisation, which is necessary to maintain contact with technological progress (but not really educational in the wider sense), with a solid cultural, humanistic and scientific foundation (which is necessary to refine ones capacities and to cultivate individual creativity). Our society no longer faces the dilemma of whether to accept a general reduction in the standard of living in the name of a better distribution of wealth,

choosing to maintain production methods that contradict the necessary search for competitiveness, or whether to promote the wealth and comfort of a minority. The new dilemma of modern society is rather the choice between adapting institutions to the scientific mode of production, seeking to make the most of all human resources, or keeping alive obsolete productive and educational models.

2. From national to continental school models.

Up until some decades ago, the two reference models for national school systems were the Anglo-Saxon type, controlled by local authorities and private institutions, and the Napoleonic type, based on the state school and on rigid administration by the national central power. This distinction is no longer so clear-cut. On the one hand, national education systems are increasingly subject to constraints imposed by international competition. On the other hand, in an attempt to try out new educational policies, the countries in the Anglo-Saxon tradition — Great Britain and the USA — are introducing elements of hierarchical control, while countries in the Napoleonic tradition, like France, are seeking to make use of some local authorities in the area of education. In general the impulse towards the changes taking place in different countries are presented as specific national choices. A rapid round-up of what is happening in the scholastic field in the principal areas of the world is sufficient to realise that in reality these impulses are increasingly the fruit of pressures and constraints created by the new international context.

The revaluation of the centralised organisation of education in the Anglo-Saxon world: the limits of the United States and the British models.

The Americans recently discovered that they had ignored President Jeffersons warning that “if a State hopes to remain ignorant, free and civilised, it hopes for something which never has happened and never will happen”. In fact, as the American economist Lester Thurow has pointed out, one of the reasons for the recent difficulties of the USA in international economic competition lies precisely in the weakness of its educational system. This is a system that is still strongly decentralised (currently 16,000 educational districts; there were 110,000 in 1924), each of which enjoys a high level of autonomy in that the school board is elected by those living in the district, or nominated from the local authorities, for a short mandate (1-3 years) and decides on the funds to be used for the

school collected by local taxes, on the appointment and payment of those who teach, on the type of subjects to be taught in the high schools (the subjects common to all high schools are very limited in number, and students can choose from a myriad of optional subjects).³ The American model has been based until now on the formation of a highly qualified elite with a university training, neglecting the diffusion of high quality levels of secondary education. This choice, which is consistent with the Taylor-Ford mode of production, based on an organisation of work in which it was sufficient to have a limited number of qualified cadres and technicians capable of directing a much greater mass of people with basically few or no qualifications, is still reflected in the American social make-up.

The United States in fact leads the world as regards the number of graduates and those with post-graduate specialisation degrees, thanks to an enormous spread of Community colleges, which has grown from 532 offering two-year courses with 110,000 students in 1933-34 to 1,219 with five million students in 1983-84. On the secondary education front, while the school-attendance index for 16- to 17-year-olds is very high, the rate of achievement among young Americans remains at a low average level: they have a poor grounding in mathematics and science compared to those who study in Europe and Japan, and a high percentage of young people with no professional training (45% of the employed people according to a survey conducted between 1986 and 1989). In an age in which competition has become worldwide, such a situation could not be sustained for long. Having ascertained that the member states of the American Federation were investing less and less in their respective scholastic systems, causing the US to drop from second place at world level as a percentage of national income spent on education in 1975, to fifteenth place in 1990, the Bush administration was forced to launch a federal plan, project America 2000, to raise the level of education. This programme still foresees the creation of at least 535 model schools, at least one for each congressional district, to obviate the fact that 30% of the qualified workforce in the US comes from 1.5% of the school districts. President Clintons electoral programme took up this plan again, emphasising among other things how “in the emerging global economy, everything is mobile: capital, factories, even entire industries. The only resource that's really rooted in a nation — and the ultimate source of all its wealth — is its people. The only way that America can compete and win in the twenty-first century is to have the best-educated, best-trained workforce in the world, linked together by transportation and

communication networks second to none.” The American administration has identified the excessive independence of the member States of the Union and of the local governments in scholastic matters as the bottleneck of the US educational system. At the federal level therefore, the need to assert common national standards and curricula is insisted upon. But the American federal model does not provide for coordination in the educational sector and therefore the question is left up to a test of strength between the administration of the day in Washington and the other levels. The central government starts off as favourite in this confrontation.

Until present the federal governments contribution to school expenditure was minimal (8.7% in 1986 as against a maximum of 10.7% in 1970), while the member states have no spare resources with which to promote a reform of their school systems.

On the other hand, the private sector, though firmly rooted in the world of the US school, has not shown itself capable of taking on the diffusion of a school model of adequate quality beyond those sectors strictly tied to the exploitation of research. Private investment in the field of education has, for thirty years, represented less than a tenth of public investment at the level of primary and secondary instruction, and half as much as for colleges and universities. In the field of education the United States has adopted an intergovernmental approach. For example, the absence of institutional mechanisms meant that in 1989 the Bush plan could not get under way without an education summit with the governors of the member-states (a summit presided over by the then Governor of Arkansas Clinton). It was because of this summit that the governors signed the Bush programme on National Educational Goals for the year 2000.⁴ The precedents in this field are not however encouraging. So far in fact, all federal-level attempts at massive intervention in education have failed. The attempt to increase pre-university scientific education at the end of the 1950s in response to the Soviet space challenge was a resounding failure. Equally disastrous was the failure of the social science programme (National Science Foundation) in the early seventies, which was attacked by Republican and Democrat conservatives in Congress and branded as an offence to traditional American values and an inadmissible interference by the federal government in the states policies. The chief limit in the experience of reforming the American school system thus lies precisely at the institutional level, which means that no mechanism is provided to coordinate education planning between the various levels of government. The federal levels attempt to acquire new powers in the area of schools reflects a centralizing tendency within

the American federal model which has already been going on for about a century. Around the redefinition of powers in education an important institutional battle is being played out in the US, the result of which however does not appear to be such a foregone conclusion in favour of the power of Washington as at the time of the First World War and of the New Deal, for two reasons. The first is that, with the end of the Cold War, while the federal government does have more financial resources to dedicate to educational policy, it cannot count on a massive mobilization of public opinion on its side and against the lower levels of government by adducing the supreme interests of national security. The second is the entry of the US into the large free trade area (NAFTA). As growing expectations in society for the success of the single American market are encouraged, the same social and productive forces will push for the educational models of the USA, Canada and Mexico to become increasingly integrated, following the example of what has happened, and is happening, in Europe. This prospect makes it more likely that we shall see the beginning of an integration of education systems throughout North America, rather than a centralizing reform at national level of the Canadian, US and Mexican systems. The redefinition of powers in education is thus destined to become one of the principal topics of political debate on the future of federalism in the US.

The elitist nature of British schools has been revealed as inadequate both with regard to the challenge of the scientific and technological revolution, and from the economic point of view. For example it has led to such an escalation of the costs that families must sustain to guarantee a decent education for their children at the best independent schools, as to induce the central power to occupy itself directly (through national policies) or indirectly (through special terms and study grants) with seeking a more balanced relationship between the central power, local authorities and private schools. The competition between public and private schools, fed by a race for the selection of a privileged elite, which tends to expel the young from school rather than to push them up the levels of education, is still very fierce. Annual publications classifying the performance of the various schools keep debate on these themes alive in the national press. The league tables in the *Financial Times* annually rank the first 1,000 schools in the country; in order to afford these, many British families take out long-term loans, and entrust themselves to specialized agencies to arrange early financial plans. This system however is beginning to show serious limits, given that for some years now the state schools have begun to score higher than independent schools and

that the number of children who benefit from exemptions or reductions even on private school fees has reached a quarter of the total. In the wake of the economic crisis of the 1980s, a first reform was started which, while preserving a decentralized structure (104 Local Education Authorities), sought to improve the educational system by shifting it towards more centralized policies, particularly in post-secondary education. But on the threshold of the 1990s Great Britain still recorded the lowest percentage among industrialized countries of students in upper-secondary schooling, and the extreme freedom of choice between various curricula meant that in 1987 more than half of the students still did not study a second language, more than a third did not study physics, and so on. Exclusively privileging the higher levels of education had not proved efficient with respect to the new, more specialised and flexible, production processes, which required both a sufficiently widespread standard of general education and more levels of professional and vocational training. With the passing of time the deficiencies of this reform became so obvious as to necessitate a further reform at the beginning of the 1990s (the previous one dating from 1988) which, contradicting a centuries-old British tradition, provides for the introduction of national *curricula* and a new organization of vocational training based on credits and national qualifications (National Vocational Qualification), on the French and German model. It is from this viewpoint that the government is seeking to reduce the influence of the local authorities, promising finance only on the basis of the number of students which individual schools succeed in attracting, and seeking to remove control over schools from local authorities by putting alongside them new councils which are to cooperate directly with industry. Thus, even in Great Britain a redefinition of priorities in training is under way, increasingly oriented towards the exclusion of large numbers of young people from secondary education, and a redistribution of powers with regard to schooling to balance the overweening strength of private schools by giving greater importance to state schools.

The birth of the new continental European Franco-German model.

In Europe the development of the process of integration and the progressive demilitarization of the member-states, which since the end of the Second World War have no longer had effective sovereignty either in the military field or in foreign policy, have accelerated the convergence between school systems which had for decades remained impermeable to

one another. The gradual creation of the single market and the coming into force of the Treaty of Maastricht have laid the foundations for delegitimising the principle of power being exclusive to any one level of government in the field of education. From this point of view France and Germany represent the two most important points of reference and convergence. In France, where school organization continues to be centralised, there has been a process underway since the mid-1980s which is attempting to bring together regional and local government in educational policy. The great challenge facing the French system, whose most prestigious qualification is still the Baccalaureat, is analogous to that of the Anglo-Saxon world: to raise the level of secondary education in quantity and quality. The objective is that the secondary school certificate, or equivalent qualification, should be achieved by 80% of a generation by the year 2000. To attain this objective, France is encouraging more diversified school strategies on the ground, which also give local authorities more of a role in the policies of guidance, training, and diffusion of new technologies. The strong points of this policy, which aims to combat unemployment by advancing general standards of education, are on the one hand the traditional *lycée*-type educational system, and on the other hand the new (for the French model) vocational training which recent governments intend should re-absorb into the educational system all those young people who do not enter university as well as all those who, while being incorporated into the world of work, need to retrain. In this connection France passed a law in 1991 recognizing workers right to training, obliging companies to invest a small percentage of profits (1%) in training programmes. The quantitative changes in progress are considerable. In 1990 57% of a generation had achieved the secondary school certificate or equivalent qualification, in 1992 over 60% (in 1987 this percentage was 43%, a situation close to that estimated for Italy at the beginning of the 1990s).

In Germany the school system hinges on the *Länder*, but the power of coordination at the national federal level is comparable more to the French system than to the Anglo-Saxon one. It is worth dwelling a little on the structure of the German school in order to highlight its specific characteristics. Once their primary education is finished (4 or 6 years depending on the Land), young people can choose to follow a course of studies (*Gymnasium*) which leads to the secondary school certificate (*Abitur*). This however does not confer the right to enter university automatically, because since 1973 competitive entrance has been introduced in many faculties, so that applications to enrol must be made

through a specialised national agency which decides on eligibility for the various universities. If they do not enrol at a *Gymnasium*, young people can follow classical-type courses (*Hauptschule*) or technical-vocational schools (*Realschule*). Up until the end of the 1980s the latter choice involved two-thirds of each new generation of the German Federal Republic (at the end of the eighties 82% of secondary school pupils followed these courses). Thus the core of the German training system followed by the great majority of young people consists of the so-called dual system, which represents a transition from school to work organized by both sides: the school system proper and the working world, represented by companies and public and private employment organizations. This relationship between school system and working world boasts long traditions, and draws on the figure of the master craftsman (*Meister*). Until some decades ago the dual system channeled students from the moment of their entry into the secondary school system along two parallel courses: one which allowed for university entrance and the other which did not. Following the reforms carried out in 1974, the dual system allows access to the *Berufsakademie*, which leads to a post-secondary certificate equivalent to a short degree. The crisis in large companies, which had an important role in financially supporting this system of training, the progressive orientation of the juvenile population towards the system of studies offering university entrance, and reunification with the German Democratic Republic, whose scholastic system was centralized and not really geared towards professional training, are however posing also in Germany the problem of a reform of the school system (which has in any case seen the number of young people entering the forms of apprenticeship provided for in the dual system in the former West Germany drop from 765,000 in 1984 to 600,000 in 1990).

Italy is in a very backward position as regards the number of university graduates (76 graduates per thousand in 1987, as against 128 in West Germany, 159 in France, 223 in Japan and 241 in the US), as regards the number of students with post-secondary school qualifications (the reform which providing for this is very recent), and finally as regards those with a secondary school certificate (49% of each generation obtains a secondary school diploma or equivalent qualification, against 95% in Japan, 64% in France and 80% in Germany). The prospect of the single European market after 1992 and of the completion of European economic and political unification have obliged Italy to introduce a short degree; they are forcing it to undo the reform of vocational schools with a view to remodelling itself on the German dual model, in order to be able to

assimilate the vocational qualifications obtained in Italy with those of other countries in Europe; they are obliging it to tackle the problem of the reform of the whole upper-secondary school system, in a way which draws heavily on the French *lycée* system. At the organisational level the crisis of public finances is bringing into discussion the centralized model of the Italian school: the Ministry for State Education is no longer able to handle the financial and bureaucratic administration of the whole system. The centre is tending to free itself from the day-to-day tasks of management and to concentrate, as indeed France, Germany and Great Britain are trying to do, on planning, coordination, support, verification and evaluation.

The impulses towards transformation of the Asian centralized technocratic model.

The Asian model merits a separate discussion, centred fundamentally on the Japanese model and on the Chinese one, which founded the centralized tradition of their school systems on the theorization of the strict interdependence between education, industrial development and security, starting from the second half of the last century in Japan, and at the beginning of this century with Sun Yat-Sen in China. In Japan, attending the schools of major prestige and of greatest quality certainly depends on the effort young people put into studying and passing exams. But this is not enough: this meritocratic system is not synonymous with equal opportunity to study offered to all. In fact one cannot attend an important university if one has not followed a very expensive school career, starting from nursery school. In general it is necessary to have a mother who is a graduate or who has a secondary school certificate, who has left work — the percentage of Japanese women who worked between the ages of 30 and 34 was 51% in 1989, against the western average of 62 to 72% — who helps the children through the difficult school career and in the *inferno* of tests and exams (*Shiken Jigoku*) (even though not all surveys agree on the emphasis given to the nightmare climate reigning in Japanese schools, at least as regards primary education); it is better to be a boy, because the division of work between boys and girls is still so accentuated that in 1989 the girls enrolled at university still only represented 15% of the total. Secondary schools and universities are so stratified that only the schools with the greatest prestige guarantee entrance into the big Japanese corporations with the possibility of a career. This structure does not aim at the expulsion of young people from the school system, indeed

the percentage of those gaining a secondary school certificate or equivalent is the highest in the world (95% of every generation), but tends to channel young people into very precise professional and social roles. The success and limitation of this system is represented by the almost total subordination of the school system to the aims of the world of industrial production and to national policies. The predominance of the technocratic model has meant that technical and scientific subjects have largely overtaken the humanities, and has given importance to the work of high-school graduates in industry. The latter are still keeping up with university graduates in terms of salary to the point that, while in the USA between 1979 and 1987 the earnings of high school graduates dropped considerably, in the same period Japanese high school graduates saw their earnings rise by 13%. The extreme centralization of the school system has maintained rituals (such as raising the flag at the beginning of lessons, and pupils in uniform) and standard textbooks throughout the country, and tends to develop a strong group spirit and feelings of national loyalty. On the other hand the system of national certification of studies remains under the strict control of the Ministry of Labour, which certifies and encourages high standards of education and/or training for all trades and professions. Thus, even to be a hairdresser, shop assistant or normal worker, one must follow a two-year post-secondary school certificate course, because to the Japanese way of thinking it is always important to give a sense of professional pride to the people who do these jobs, a sense of belonging to a category which carries out an honourable and socially useful profession. In Japan at least 50% of a generation of high school graduates entering the labour market must follow professional training courses. In response to recent signs that people were becoming restive under this system, the state has tried to create less traditional post-graduate schools so that “young people should discard all that traditional schools have taught them, because we ask them to develop and emerge as individuals and not as automata” (*Matsushita* school).

An analogous system as regards hierarchical school organization and the high value placed on the formation of group spirit and the spirit of sacrifice, also applies in China, Taiwan, and South Korea. It should not be forgotten, moreover, that in all these countries the educational system begins precociously to stimulate to the utmost a child's learning capacities: children are required to know several thousand characters by the end of elementary school.⁵ This has been shown to be particularly effective in stimulating a greater ability in Asian adolescents, compared to westerners of the same age, to learn mathematical processes and technical-scientific

subjects. But the transformation which even Asian societies are moving towards is attacking the hierarchical and technocratic principles on which these education systems are based. And even for Japan and China the time has come for a reorganization of schools, which must take account, for example, of increased educational levels among the female population and of a growing openness in these societies to cultural and other exchanges with the rest of the world. All this has come about in a climate of an increasing refusal on the part of the population to accept the subordination of educational objectives to the needs of industrial production.

3. Educational institutions and political institutions.

No national school system today succeeds in guaranteeing the transmission of culture, training for the new professions and promotion of scientific education adequate to the requirements of the new society. This situation, as we have seen, is bringing all countries to start profound scholastic reforms which are moving towards a greater integration of national educational systems in a broader international and global educational network. We are, in other words, entering a new phase in the history of education, in which the powers of various levels of government in scholastic matters, and the characteristics and functions of school, are once more coming into discussion. In the past such transformations have already been seen in the history of education, particularly western, at the level of cities, regions or states. Today we are on the threshold of the creation of a world education system.

From urban to national education.

In the eleventh and twelfth centuries the task of providing a broader secular education was undertaken on by the cathedral schools (particularly in France), under bishops and abbots; these, starting from their embryonic forms in the sixth and seventh centuries, spread rapidly to satisfy the need for learning and scholarship in the period of lively economic and intellectual activity which followed the European renaissance of the tenth century. In almost the same period, under the impulse of the social forces of commercial Europe which were leading students to seek appropriate professional training, a completely new educational institution was born, the *universitas*: this was typically corporate in character, and its chief aim was not to impart all knowledge, but only that part of knowledge useful

to specific professions.⁶ This organization of the education system proved insufficient on its own to meet the growing needs first of Italian renaissance society and then of European renaissance society. Thus there began to spread, starting from the cities, some permanent scholastic institutions, not reserved only for nobles: these were organised into different levels of instruction from small boys up to adults, and based on the teaching of humanistic culture for practical ends. European cities, unlike oriental ones, thus began to integrate into their urban fabric a new structure and a new function. In addition to the city walls, which were built for defensive purposes, the shops and squares, which were indispensable for carrying on commercial functions, and religious buildings, European cities began to include buildings specifically for public education. Up until the nineteenth century, that is until the advent of the Napoleonic state and the spread of the industrial revolution, scholastic institutions remained substantially under the control of civic institutions. But by the end of the nineteenth century, the majority of children in Europe and America were already studying the history of the birth of their nations and of their national heroes and were learning to write, read and speak the national language. This type of instruction became widespread, during the same period, in the Balkans and Russia. In the twentieth century, with the spread of the nation-states control over the upper levels of secondary education — above all in continental Europe a class of leading cadres was formed, educated to be loyal to the national power and national interests.

This educational model began to enter in crisis in western Europe at the end of the Second World War, but became more established however in the USSR and in the US until the end of the Cold War. Today it survives in Asia, and in the educational systems which the states born of the disintegration of the ex-Soviet empire are trying to organize.

The end of the age of national education.

With the progressive loss of military and economic sovereignty in European countries, and with the profound social transformations introduced by the scientific mode of production, the national character of education has become an obstacle to overcome on the road to forming a new type of citizen. In less than fifty years, the dominant figure in advanced society has changed from being the peasant to the worker, from the worker to the technician, and from the technician to the student: today the European Union numbers over sixty million students and four million

teachers. For this reason too, the European Union has indicated the creation of the European citizen as the chief objective to be followed by the schools of the European Union. An objective clearly in contradiction with the educational systems which for years developed with a view to forming good English, German, French and Italian citizens, but which obviously cannot reduce themselves to merely replacing national education with European nationalistic education. The increased heterogeneity of society, increasingly multiracial, multireligious, multilingual, the economic mobility and the birth of professional profiles which by now only make sense if they are recognized internationally, present every school system with a choice: either to close in on itself in defence of anachronistic national and/or local traditions, or to accept the challenge of a cosmopolitan education. In the past, when the protection of fundamental human rights was not yet guaranteed constitutionally in the majority of countries, the first road was followed by all those minorities in a city or a nation who sought, through the institution of independent schools with a predominantly denominational character, to defend traditions, language and religion. Examples of this can be found in the Anglo-Saxon world, in the schools which emerged in American cities in the nineteenth century on the initiative of groups of immigrants who wanted to safeguard their Jewish, Catholic, national or other origins, or in the most expensive British independent schools, which were established and developed to maintain the elitist training of a minority of society.⁷ The nation state, mythologizing the history, linguistic tradition and common origins of the populations who lived in it, extended to the national community the educational systems which had been typical, up until the last century, of only small minorities or elites. The definitive victory of the nation states in affirming in the scholastic field the exclusivity and superiority of their respective national cultures is, as the historian Hobsbawm has shown, a relatively recent phenomenon, and in practice coincides with the national administrations winning control over secondary education towards the end of the last century. The internationalisation of the production system and the revolution in the communication of information, now available to all in virtually the same moment, has torn away the nationalist veil which had prevented recognition of the limits of the education system founded on the exaltation of national culture and scientific discoveries and on the exaltation of national monolingualism. Today the mission of the school can no longer be seen as the transmission of a national or sub-national ideological, linguistic or cultural creed. The mission of the school is increasingly identified with the task of balancing

a cosmopolitan training with the need to connect and harmonise school and educational policies from the town to the international level.⁸

The age of cosmopolitan education.

It is a frequently-neglected fact that educating people is a difficult process. As Kant has noted, “man can become man by education alone. He is merely what education makes of him. It is worth noticing that man is only educated by other men, and by men who in their turn have been educated. Were some being of higher nature than man to undertake the task of our education, we should then be able to see what man might become. It is however difficult accurately to estimate mans natural capabilities, since some things are imparted to man by education, while other things are only developed by education. Were it possible, by the help of those in high rank and through the united forces of many people, to make an experiment on this question, one might even by this means be able to gain some information as to the degree of eminence which it is possible for man to attain. (But... those in high rank generally care only for their own concerns, and take no part in the important experiment of education.)”⁹ The scientific mode of production is finally forcing people and institutions to occupy themselves more and more with the “experiment of education”, on pain of risking the decline of civilization. But this is still happening more in consideration of the present world than of the future world and of the destiny of mankind. In this connection, Kant notes how parents usually bring their children up with a view to them taking their place in the present world, and only so that they should succeed. On the other hand, Kant adds, he who rules the state takes education to heart only from the point of view of the transformation of subjects into docile instruments to pursue their own plans. “Parents think of home, the princes of the State. Neither the ones nor the others have as final objective the universal good and the perfection for which mankind is destined and they are gifted. And yet the concept of an educational plan must have a cosmopolitan bent. Does this perhaps mean that the universal good is an idea which can harm the particular good? By no means. Because even if it may seem that it is necessary to sacrifice something to it, thanks to this idea one also works better for the present good. Good education is the true source of all the good in this world.” These intuitions may finally become reality as a result of the need for all people to take account of the value of cosmopolitanism in an era in which the global dimension of problems, in particular those of ecology and of peace, daily takes on very visible and

dramatic connotations.

As regards content, there is now an almost unanimous consensus on the fact that we must adapt the average level of education of all citizens to the degree of advancement of the great cultural disciplines.¹⁰ This implies that new generations should learn to have simultaneously a physical and biological image of the world they have inherited and of that which they will leave to future generations; that they should have a vision of the historical process from the point of view of the human species as a whole, and not of any particular national tribe; and finally, that they should acquire a basic knowledge of the mechanisms which govern individuals political and economic behaviour and the elements through which they can retrace the difficult path followed by mankind to create a rational vision of the universe in which it lives. As regards institutions, since education must become the instrument through which all the citizens of a state must learn to cooperate with the citizens of other states, rather than to hate and fight them, school will be one of the principal fields of application of the coordination of national policies.

4. Education, citizens rights and the European federal constitution.

National markets and economies are now part of a single global market. School systems must either acknowledge this new reality or be destined to turn into temples for passing on a culture that is an end in itself, and a mediocre vocational training. From this point of view Europe represents the most advanced laboratory for the transformation of education systems. With the coming into force of the Maastricht Treaty, not only have specific legislative powers been assigned to the European Parliament in the area of education, but, with the recognition of the right to European citizenship and to free movement, the preliminaries have been set for the reciprocal recognition of educational qualifications by all the member countries of the European Union. It is from this point of view that such apparently contradictory phenomena should be analysed as the progressive loss of importance in the legal value of national educational qualifications, and the affirmation of the need for greater freedom in teaching and for a broader sharing of scholastic powers between different levels of government. The Maastricht Treaty has created in Europe a juridical context unique in the world as regards cooperation between different institutional levels in the field of education. Alongside the powers of the member states of the Union, and within them, of the *Länder* in Germany, the Local Authorities in Great Britain, the Regions in Italy,

the Departements in France etc., for the first time the possibility of the Community “contributing to the development of a quality education” at the European level has been recognised. Limited legislative power has been assigned to the European Parliament, even through a complex procedure, to be shared with the Council and the European Commission in the field of education, training, research, and technological development. Hence the way has been paved for recognition of the principle according to which several levels of government within the Union can have powers in the scholastic field. The Treaty has, in other words, recognized the validity of the idea behind the article already present in the draft Treaty of Union promoted by Spinelli and adopted by the European Parliament in February 1984, according to which concurrent powers must be exercised in the educational field by the Union and the member states. The member states have thus renounced part of their sovereignty in the scholastic field. However there is not yet a European federal constitutional framework which guarantees citizens against an intervention on the part of the same states to unilaterally modify in their favour the framework of powers in the scholastic field. The fact is that, for the moment, the European States have found themselves forced to include education among those policies on which it is now necessary to share sovereignty, but claim at the same time respect for their responsibility as regards the content of teaching and the organisation of the education system, as specified in the Treaty of Maastricht. However it takes no account of the responsibilities which other levels of government, like the regions or the towns, already have, or could assume. This ambiguity has already emerged in the course of the debate on the ratification of the Treaty, when the regional governments of the German *Länder* rightly expressed their fears of a reduction of the powers which they already have in the scholastic area. The Treaty of Maastricht has thus posed a problem, that of coordinating scholastic policies, without succeeding in solving it. If, as by now seems obvious, the national authorities are destined to see their role in the scholastic field reduced, is it to be hoped that in parallel fashion the Union gradually extends its powers in the field of education? Or should an extension of powers at several levels of government be hoped for? The Union does not at present have any instrument available to decide either way, a constitution not yet having been adopted which defines the fundamental rights of individuals as regards teaching and education and which establishes the rules for emending democratically, and not through intergovernmental agreements, the obligations of the member states and European institutions towards citizens.¹¹ “Natural

rights are those which appertain to man in right of his existence. Of this kind are all the intellectual rights, or rights of the mind... which are not injurious to the natural rights of others.” Thus Thomas Paine, already an active supporter of the American Revolution, expressed himself in 1791, in defence of the Declaration of the Rights of Man and of the Citizen approved by the French National Assembly in 1789. As in the time of Paine, so today Europeans are faced with the problem of creating a new common power to conserve their rights. Is it a contradiction to seek to affirm rights through the institution of a new framework of power? According to Paine, the answer is negative, in that “the natural rights which are not retained, are all those in which, though the right is perfect in the individual, the power to execute them is defective.” The development of the process of European unification has put Europeans face to face with the fact of no longer being able to retain their own intellectual rights in a purely local, regional or national context. In this sense the rights of Europeans can now be fully guaranteed only by a federal European constitution. But the conservation of these rights is, as we have seen, also increasingly linked to the type of reform of the school system which will be undertaken. From this point of view, what is new in the Maastricht Treaty with regard to concurrent powers in the scholastic field, can not have all the hoped-for effects unless it is included in the European constitution, while at the same time extending it to all levels of territorial government present in the Union. Only if this happens can the regional and local powers be given their due. In fact it is illusory to think that the reform of schools can consist of a simple reform by the Ministry of Public Education where this already exists (as in France and Italy), or in its introduction where this is not even extant (as in Germany, or indeed at European level). If it is true that the new mode of production and the regional processes of integration impose a greater coordination of scholastic policies, this can be achieved by instituting in the first place mechanisms — controllable and transparent — to verify the diffusion on the ground of adequate of teaching instruments and the effective raising of education levels. These mechanisms are not comparable to centralised management and control; on the contrary, they could be part of devolved scholastic agencies distributed across the territory. In fact, with the prospect of a diffusion and sharing of scholastic powers to all levels of government, the circulation of information on the quality and the type of education available in the various territorial contexts, which is practically inexistent (because useless) in a system of public education based on national directives and administrative hierarchies, becomes the fulcrum

for planning scholastic policies. The age of the exclusive management of schooling, only at the national, regional or local level, is definitely over. We now need to create institutions capable of reconciling the need to coordinate scholastic policy with the safeguarding of the independence of the various levels of government. In this sense the battle for educational reform coincides with the battle for institutional reform and, more precisely, with the battle to speed up the overcoming of the national dimension of the state by a federal supranational dimension. To the extent that the world, and primarily Europe, where this transition is now within reach, will be able to set itself on this road, school may really be able to contribute to responding to the challenges of the new mode of production and the globalization of problems.

NOTES

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⁹ Immanuel Kant, *Education*, trans. Annette Churton, Ann Arbor, The University of Michigan Press, Ann Arbor Paperbacks, 1960.

¹⁰ José Ortega y Gasset, *La missione dell' Università*, Naples, Guida, 1972.

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Notes

CAN WE DELEGATE THE FOUNDING OF THE EUROPEAN FEDERATION?

The Karlsruhe constitutional court's decision removing the last hurdle to Germany's ratification of the Maastricht Treaty is a complex document which touches on certain key points concerning the European unification process. Many commentators have interpreted it as applying the brakes to the German government's European policy. In fact it does no such thing. Rather, the decision clearly aids those working for European political unification since the Court has undertaken an in-depth examination of the phase which the process has currently reached and the constitutional problems raised by its present state of development. In this way the decision provides very useful information about the direction in which to move and the nature of the obstacles to be faced.

The basic observation the Karlsruhe judges make is that the Maastricht Treaty establishes a grouping of states (defined with an unusual term in German constitutional language — *Verbund*) based on the *European peoples*, and not a state based on a single people (*Staatsvolk*). This means that the grouping's legitimacy derives primarily from the national peoples through their respective parliaments; to this is added, "in measure depending on the deepening of interdependence between European nations," a legitimacy deriving from the European Parliament, elected by the citizens of the member states.

The above establishes that as long as the Union maintains this characteristic, the member states will be the masters of the Treaty through the organs delegated to negotiate and ratify its formal modifications. The Federal Republic, by ratifying the Maastricht Treaty, "thus does not submit to a self-propelling mechanism, free of any supervision or control.... The Treaty opens the way to further gradual integration based at each subsequent step either on conditions that the Parliament should be capable of foreseeing, or on the further consent of the federal govern-

ment, influenced by the Parliament.”

Hence the court denies that an entity which has yet to assume the character of a state, and which offers democratic guarantees at the European level of a subsidiary nature (under any circumstances totally insufficient), can arrogate to itself the “competence of competences”, the power to decide the scope of its own powers. The Treaty can be modified in order to turn the Union into a state, but this will only be possible with the approval of the member states and their parliaments.

The underlying message of the judgement hence seems to be that it will be impossible to create the European federation by sleight of hand. The foundation of a state presupposes a clear and explicit act of will. In the opinion of the Karlsruhe Court, which examined the question within the legal framework of the Treaty, this is represented exclusively by the explicit approval of the member states. For the federalists, this also presupposes the impact of a new actor on the process — the European federal people. Clearly, the European federal people are not yet a real *Staatsvolk*, the citizens of a new state, but they do exist embryonically as an ideal fact and as a nascent political entity. Undeniably the moment for a conscious democratic choice can not be avoided. This point must be satisfactorily addressed in the debate about a strategy for the struggle for Europe, and in particular when discussing the argument that tends to identify the key moment in the process as a decision of a purely procedural nature, that is reform of art. 236 of the EEC Treaty (which sets down that each reform of the Treaty must be agreed unanimously by an intergovernmental conference and ratified by all the member states). Supporters of this interpretation argue that it is possible in practice, by introducing majority decision-making into the mechanism provided for in art. 236, to attribute the competence of the competences to an organ which, precisely since it could take decisions against the will of some of the community’s member states, would not be identified with them. Moreover this change would be carried out without simultaneously transforming the Community into a real federal state and without determining beforehand which changes of the Treaties can be decided with the new procedure.

Such a proposal can be formulated in many different ways in an effort to increase its acceptability. In particular it is possible to imagine that majority-voting in the Council when modifying the Treaties be coupled with the opportunity for dissenting states to opt out of the obligations which an alteration would impose. Yet, regardless of the form it takes, the idea that Europe can be constructed by introducing the majority-voting

principle into art. 236 is a non-starter, since the proposal in which this is expressed is destined to remain useless or even unachievable in practice. In reality only two possibilities exist. The first is that alterations of the Treaties by majority-voting are restricted to issues which do not involve institutional questions, and in particular do not lead to the renunciation of sovereignty. In this way there exists the contradiction of having rendered the proposed procedure incapable *a priori* of achieving the goal for which it was thought up. In any case, the significance of the innovation would be minimal. The Rome Treaties have in fact been incessantly modified from the moment of their coming into force through the extensive use of art. 235 of the EEC Treaty (which exonerates from ratification by the national parliaments the attribution to Community organs of powers necessary to achieve one of the Community’s goals but not provided for in the Treaty) and the interpretative work of the Court of Justice. This will continue whether the text of art. 236 is modified or not. Opting out, for its part, is already granted on a case-by-case basis (as happened for Great Britain and Denmark for some clauses in the Maastricht Treaty) without changing the mechanism of art. 236. Whether this happens by majority or unanimous decision does not alter the substance of the issue.

The second option is that a new drafting of art. 236 establishes that the transfer of control over the Treaty (the competence of competences) from the states to a body which is largely free of their influence be not restricted to secondary issues, but include institutional alterations, and particularly those which involve a renunciation of sovereignty. This is vital if the proposal is to have any significance. But if this is the object of the proposal, the Karlsruhe Court reminds us that, within the current legal framework based on the Treaties, this represents an inalienable prerogative of the member states. This prerogative must be exercised by the member states through the organs designated by their respective constitutions to carry out this task; they can not delegate it to institutions different from themselves, which would in this way be authorised to deprive them of their sovereignty by stealth, outside of all democratic control.

In reality the creation of the European federation is outside the logic of reforming the Treaties. It presupposes the creation of a new constitutional structure and a break with the existing confederal order. This can only be the result of a dramatic political confrontation which will occur in a moment of crisis, pressurising the forces involved to take sides and deeply involving citizens. No legal artifice will ever permit Europeans to avoid the moment of truth. In any case the Karlsruhe Court expressly

declares that any such artifice would be incompatible with the German constitution, and that Germany would be unable to accept it. This is not to deny that the adoption of a federal constitution for the European Union would nevertheless have a procedural aspect, but this aspect would concern solely the ways and means in which the nascent European people will assume control over the process and provide the basis for legitimising the constitutional outcome. Nor is this to deny that some states may be excluded, or exclude themselves, from this process. But this would represent an exclusion, or self-exclusion, which it would be wrong to interpret as an opting out, since this process would represent a dramatic break with legal continuity (possibly obscured by cosmetic clauses aimed at a pretence of agreement between the contracting parties after the event). Member states which remain outside the federal constitution will not avail themselves of a special regime in a particular sector, within a framework which would remain the same for all, but will be excluded from a completely new constitutional order founded on the exercise of popular will.

The Karlsruhe Court decision reminds us that in any process of creating a state, and particularly in this case of the passage from a confederation to a federation, there exists the crucial moment of the constituent decision. It reminds us in other words that Europe will not drop into our laps.

Francesco Rossolillo

EUROPE IN A CHANGING WORLD ECONOMY

1. In general there is a significant time lag both in the way of thinking about and presenting certain facts and situations; because of this the great changes that have occurred in recent years have been given little prominence. In the field of economics, for example, the development process has reached an ever greater series of countries; hence we currently find ourselves in a very different global economic system from that traditionally described.

Ten or more years ago it was in fact possible to divide the globe into industrialised countries (including, with certain limitations, the Communist world) and the Third World, also known as "developing" countries. Nowadays this representation no longer holds true. The acceleration of development is evident in at least two areas of the world: a traditional area, Latin America, which had already experienced a period of development in the 50s, followed by a period of chronic decline, and which is now expanding with renewed vigour; and a vast new area, Asia, where two thirds of the world's population lives. In Asia, the remarkable development of Japan was initially followed by that of the so-called "Asian tigers", which, to a certain extent, are countries with unusual characteristics, such as Formosa, Singapore and Hong Kong. Development has subsequently spread to more important countries such as Korea, Malaysia, and Thailand. Recently China, India and Indonesia have registered development of notable proportions.

The current question is whether such development can be consolidated. While no more than ten years ago the fundamental problem was how the North of the world could intervene to launch development in other areas, now we have to ask ourselves how the old industrialised countries, and in particular Europe itself, can shoulder the serious responsibility of encouraging, rather than hindering, the above-outlined process. This implies, first and foremost, a new interpretation of the North-South relationship.

The above-outlined phenomenon does not hold true for the entire world: the Middle East has not yet begun the process, even if the signs of peace between Palestinians and Israelis are undeniably positive; and Africa still remains outside the process. Nevertheless it is extremely important that huge masses, billions of people, have entered a development phase. However, such a phase is not independent of the choices which Western countries make; if these are mistaken, they could completely block the positive outlook which has been outlined so far. This has

occurred in recent times, during the 60s, to certain Third World countries, due to the short-sightedness of the then advanced countries.

The economic development process is crucial for spreading democratic institutions throughout the world, and this correlation is clearly visible for the above-cited countries. This holds both for Latin America and Asia, such that the relationship between democracy and development seems to be strictly interlinked. In addition the economic development of ever larger areas is fundamental for the creation of real international institutions.

Furthermore, we will limit ourselves to alluding to the fact that the type of economic development pursued will have to take account primarily of ecological obligations (scarcity of raw materials and natural resources, proper use of land) and will not in any way be able to follow the route taken by the old industrialised countries, which would have disastrous consequences.

But, beyond this important constraint, the problem of the scarcity of capital at the world level (that is, the endowment of the goods at our disposal) assumes prime importance. Since, clearly, capital that is used in a particular area can not be used in another, the rapid development which is taking place in some parts of the ex-Third World requires large capital inputs. But this can only happen if systems are set up to direct public (managed by state or supranational institutions) and private capital (managed directly by the market) in support of development. This implies a need for world institutions that are capable of directing the process according to certain criteria of priority.

2. Let us now look at what is happening in the old industrialised countries. Here, production methods are changing beyond recognition, from methods implemented in the last century with the industrial revolution, and subsequently evolved, to completely new ones — those of the so-called “scientific and technological revolution.” As a result the model which has dominated particularly the last 50 years, based on increased consumption, can no longer function, due to the material impossibility of increasing consumption *ad infinitum*.

Two factors illustrate how industrialised countries are having serious problems implementing the radical changes made necessary by the new production methods.

First, the reluctance to develop trade between old industrial and emerging countries. Second, the difficulty of creating jobs, even for young people who are well-qualified.

Economic theory is categorical about the need for a world market, if

the objective is not to diminish development prospects for ex-Third World countries. If these latter are in practice prevented from selling their products in the large markets of Europe, the US, and Japan, they will be unable to accumulate production capacity, and disaster will result. Remember, for example, the case of Burma, which in the 60s gave a powerful stimulus to its textile industry, and which today is one of the poorest countries in the world. This setback was mainly caused by an agreement among European countries to restrict textile imports from the Third World (in the political sphere an authoritarian regime took over). The opening up of the European market is particularly essential, since Europe is the world's largest market — the development process can not be launched without it.

It is worth recalling that in the 60s, immediately after decolonisation, the dominant slogan was “Trade, not aid.” Aid is significant and useful when it helps to stimulate production activities; otherwise its impact soon fades.

In order to build the new world economic order institutions to govern the market are needed: as Lionel Robbins has explained, the market is not anarchy but organisation, and the need for suitable institutions which regulate and direct it is fundamental. It is not coincidence that the following structures were created in the early post-war period: the IMF (International Monetary Fund), designed to guarantee ordered monetary organisation; the GATT (General Agreement on Tariffs and Trade), whose task was to define and enforce trade rules; and the OECD (Organisation for Economic Cooperation and Development), to coordinate macroeconomic policies. The aim thereby was to facilitate the integration of the US and European countries into world trade. These mechanisms must now be re-thought, so that all the world's countries may participate in the development process.

It is nevertheless crucial that Europe achieves internal economic and monetary union. Some examples will help to clarify this point. During the recent negotiations on revising the GATT, the attitude of the European Community, which inclined towards concluding the agreements, was completely at odds with that of individual countries, which tried to slow down or block them. This was because countries, acting individually, tend to close in on themselves and defend their own markets. The role of Europe, and its economic and monetary union, is therefore fundamental in correcting a highly damaging distortion that Triffin never tired of denouncing. As he continually reminded us, we are not part of an “international monetary system”, but an “international monetary scandal.”

In fact, the world's capital is invested mainly in the US and partly in Europe, notwithstanding the fact that it emanates from the Third World. Logic would clearly presuppose the opposite of such flows, since it is the Third World's production that must be developed. Instead, the scandal of 20 per cent of the world's population consuming 80 per cent of available resources, while the remaining 80 per cent of the world are left only crumbs, continues to repeat itself.

Hence an institutional change is needed if we want to avoid a disaster in developing economies, which would in turn also swamp industrialised countries. And the first change must be the enactment in Europe of economic and monetary union, since it is impossible to imagine that the current trend which drives capital towards the US can be altered without the European Union. Indeed, only the prospect of having to create a European currency has forced first France and then Italy to cut their deficits and wastage so as to become countries which, instead of draining the world of resources, are able to invest, even in the context of a future dominated by a rapidly aging population. The US, which has an enormous deficit, is presently able to continue attracting capital because the US Dollar is a currency demanded throughout the world (this was reinforced by the EMS crisis), and so clearly has no incentive to cut its deficit decisively, as was the case for France and Italy until a few years ago. In order to begin changing this perverse mechanism it is therefore necessary to take action on a decisive issue: the creation of a European currency.

Another point to consider is that the European experience can provide a model for other areas of the world, since it is clear that it is impossible to create a world market, with solid world institutions, if such areas do not establish continental institutions.

The NAFTA (North American Free Trade Agreement) Treaty between the US, Canada and Mexico, which has the significant effect of fully involving Mexico in the economic development process (and what is true for Mexico could hold for other countries in Latin America), encountered difficulties in its ratification in Congress. Yet, clearly, if Europe were decisively advanced along the road to economic and monetary union, this challenge from a large economic space would have forced the US to accept the same logic without hesitation.

Another significant point is that the development which has taken place in Asian countries, mentioned at the beginning of this article, has not suffered over the last two or three years from the crisis and recession which overtook the American economy, and now also the European one. This is primarily because South-East Asian countries have been able to

develop trade among themselves (consider that intra-regional trade between Indonesia, Malaysia, Singapore, etc., is more important than these countries' trade with Japan, the US and Europe), opting to develop a regional area which will contribute considerably to the stability and development of the world market.

But if the European enterprise should fail, there would re-emerge at a world level a strong tendency to protection, since it would demonstrate that the continental economic/monetary union path is impractical. As regards this issue the responsibility of Europe is greater both than that of the US and Japan, since the acceptance of the new development model implies a tearing down of frontiers, a willingness to import industrial and agricultural products from ex-Third World countries and, consequently, the elimination of entire sectors of production in Europe as a whole (for example, large part of the textile and mechanical industries, etc.) and their transfer to newly-developing countries. Should this fail to happen, the risk of world economic disaster is very real.

3. How can Europe make this leap forward? The answer lies in the transition from the industrial revolution to the scientific and technological one. Clearly, it is necessary to recall what problems Britain had to deal with during the first industrial revolution; in particular the abandonment of the agricultural sector, eased by the fact that precisely in those years the British Empire was being established (note that one of the reasons which caused the US to declare independence was that Britain's colonies were obliged to buy only British industrial products). Nevertheless, as confirmation that Europe's future lies in the scientific and technological revolution it is enough to use our imagination: if we were to look at the world from a vantage point on the moon, Europe would seem a tiny entity (300 million people in a world of 7 billion), an entity which can be compared to a Renaissance city. Nobody would ever have dreamed of laying out fields to grow agricultural produce in Florence, rather than building artisans' workshops.

If we consider today's Europe, it is hard to imagine increasing its stock of industrial plant — for ecological, organisational and other reasons. Here, artisan workshops in a modern sense should be installed, in other words enterprises representative of the scientific and technological revolution, which contribute to developing the technological capacities of all mankind.

The choice, then, is between trying to defend job prospects and the well-being which we already have, closing in on ourselves, trying to slow

economic development down and defending existing industries with subsidies; or making a leap forward, driving and strengthening the process ourselves. From the perspective of the jobs market, we will no longer have any blue-collar workers, nor even white-collar ones: the prevailing image will be that of “white coats”, that is of technicians.

If the aim is to give young Europeans the prospect of work and well-being, then flexible work methods (the opposite of “fordism”), which encourage worker participation and innovation, need to be introduced; this partly explains Japan’s high productivity. Furthermore, it will be necessary to abandon large production units with thousands of employees, and develop entrepreneurial abilities, in other words the capacity of individuals to fulfil dynamic roles, increasing the human capital employed in small production units.

Another change, which may seem provocative, is a reduction in real wages. This does not necessarily signify a reduction in earning capacity and standards of living. The example of the British industrial revolution was not selected casually: the Luddite movement tried to block the industrial revolution because it was damaging existing jobs (albeit very menial ones); on the other hand, the Manchester School obtained a reduction in the price of wheat, enabling salaries to be kept low without lowering standards of living.

The present situation is similar: the problem is the level of prices, whose reduction would compensate a fall in earnings.

Europe could import food, textile and industrial products at lower prices than those currently maintained by protection. Hence it is necessary to find the courage to open up to international competition, abandon certain sectors of production and concentrate on new ones. It is not true that inflation produces development, that traditional economic development produces jobs, or that prices must always rise. In a world market some prices must fall since prices outside the industrialised world are low. Moreover, Third World countries would still benefit if Europe imported at lower prices, because in the present situation, being unable to sell in a protected market such as Europe’s, they sell elsewhere at even lower prices. In this way, if Europe opened its markets, world prices would increase slightly, but remain below the levels European consumers are currently obliged to pay.

Unfortunately the current debate does not emphasise development prospects. The idea that by creating a few public works we can solve Italian employment problems is false. For example, the decision to make high-speed trains should be taken in light of the utility of such trains, not

in an effort to solve the employment problem. If it is not possible to export “high speed” products throughout the world, we will be giving jobs to discontented, unskilled workers (and this is not what young Europeans are asking for) and the work will probably end up being done by Third World immigrants.

Hence the real issue is for Europe to assume its world responsibilities, providing simultaneously a contribution to the world and a positive response to its own citizens.

To achieve this, Europe needs three things. First, a single currency, so as to prevent the system from continuing to channel resources in the wrong directions; second, an economic development plan which directs resources towards new technologies, and spurs the creation of research centres which will attract students from developing countries, and so on. However, to achieve the first two points, a third element is needed: a European government.

The EMS crisis has laid bare the two weaknesses of the Maastricht Treaty which the federalists have always denounced. First, that it does not provide for a real European government, answerable to European citizens through the European Parliament which would be capable of directing such a process — although a revision by 1996 is laid down. The second weakness is the excessively long transition stage before adopting a European currency. In this light, then, accelerating the creation of a European government and a European currency is the objective of the current federalist battle: an objective which political groups, social forces, and other political actors, will be forced to declare their opinions on during the electoral campaign for the forthcoming European elections.

Alfonso Jozzo, Corrado Magherini

POST-MAASTRICHT STRATEGIES

WOLFGANG WESSELS

I. The debate about a European constitution: urgent and necessary

Debating strategies for a European constitution may seem to many an activity typical of “ivory-tower” academics and over-ambitious politicians and bureaucrats who have lost contact with the day-to-day realities of Europe. Are not far-reaching ideas, proposed at a time of serious economic depression which has brought about unemployment, protectionist reaction and xenophobic, racist and nationalistic outbursts, simply irrelevant utopias and illusory? What sense is there in thinking about measures which, regardless of the form they take, will exceed the apparent political will of European citizens as demonstrated in referendums and opinion polls? A serious legitimacy gap is held to be the basic obstacle to such ‘naive’ speculation. Debating European constitutional reform is seen as distracting attention from the fundamental, concrete problems that presently need to be tackled. Such an approach might thus even be counterproductive.

Any serious analysis of the political situation contrasts completely with those outlined above, and so suggests alternative measures. A wide-ranging and in-depth debate about European strategies for further progress is urgent and necessary. The key issue of how Europeans wish to create an order for organising ways to tackle future common problems (such as the fundamental issue of a “constitution”) is not obsolete, but rather has become more important, even though the political agenda may give priority to other issues. The political and economic crises make it clear

* This heading includes interventions which the editorial board believes readers will find interesting, but which do not necessarily reflect the board’s views.

that the basic options and strategies need to be examined in light of the underlying trends of Europe’s development, even if the results of this debate will not be the subject of decisions immediately. If the official timetable holds, the intergovernmental conference (IGC) of 1996 will provide the forum for a further set of decisions.

Such a debate is however not geared to easy answers. Several questions have to be discussed seriously before a recommendation can be made. The following issues should be considered:

a) A useful starting point is to examine how the Maastricht Treaty on European Union (TEU) has been perceived and interpreted as an element in the (historical) development of Europe. In particular, have the revolutionary upheavals beginning in 1989 affected interpretations of the TEU? Is a basic change in paradigm needed to understand the (European) world? Hence do we need to review our assumptions about the fundamental context within which the TEU will operate?

b) A deeper examination of the political situation, explaining the TEU’s legitimacy deficit, and indeed that of the whole integration process. Is this deficit a cyclical downswing of a generally favourable consensus (as observed before in West European history, for example the “Eurosclerosis” of the early 80s) or a structural shift away from accepting the integration process? How, then, can the elaboration of a “constitution” influence the legitimacy record of the European Union (EU)?

c) The form, contents, and utility of a constitution. What are the necessary and sufficient ingredients when we talk of a constitution? What kind of image/concept of the nation-state is implied in these concepts of constitution?

d) The (vertical) division of competences among several governmental levels (how many should we consider?). How can we measure the effectiveness of public instruments used at the different levels? More concretely, how is the subsidiarity principle perceived; more precisely, in which direction should it operate? Furthermore, subsidiarity needs to be linked with solidarity and introduces the issue of an “optimal political area”, in the sense of an “optimal size for a democracy.” Subsidiarity, then, is more than the technical issue of organising the division of competences in the best administrative fashion; rather, it is an instrument of the underlying political battle.

e) The (horizontal) division of powers. How are the efficiency and legitimacy of the EU’s governmental system to be measured? In particular, how should the constitutional rights of preparing, taking and implementing

binding decisions be allocated between the European Council, Council, European Parliament (EP), Court, Commission, and perhaps increasingly the Committee of the Regions?

f) The state-like structures and public resources to be granted to the EU. What legal mechanisms are envisaged; what financial resources are to be earmarked for the European level; are there to be other common initiatives, such as a European currency or army?

g) What will the geographical scope of a European constitution be? In particular, does the current membership represent the optimal political area, and if not, what criteria should be applied to membership?

h) The strategy to pursue in the future, following Maastricht. How should initiatives for the constitution be drawn up and carried out in light of the 1996 IGC and further enlargement? How can this project be made more appealing in public and political debate? Experience has shown that it is difficult to mobilise the general public for this kind of primarily theoretical debate using a general, abstract set of proposals.

This list of unresolved issues is long. Are there any blueprints, models, former drafts, or such like, available which could be used to propose a comprehensive and coherent answer to these questions? Both the 1953 draft treaty on the European Political Community and Spinelli's 1984 draft for the EP, as well as the Herman report, come to mind. Are these models still relevant or inappropriate, because they were conceived in a different historical context?

To conclude on the significance of the debate: fundamental issues of the political system in its broadest sense are currently re-surfacing in the changed context of the "new" Europe of the 1990s. Issues such as the nation, state, democracy, community of destiny, and solidarity, are components of the (sometimes hidden) agenda of the next steps of the EU.

II. Five schools of thought

The post-Maastricht debate on the future of the EU has been characterised by several heterogeneous schools of thought, which above all indicate a clear demand for further discussion and initiatives. These schools of thought, analysed below, represent intellectual constructs which combine (and partly extrapolate) lines of argument which seem to reflect the basic trends in the current state of political and academic debate, the *acquis académique*. These schools partly overlap, and partly conflict, with each other.

1. The incremental implementation of Maastricht.

The "Maastricht-as-the-best-offer-available" school of thought starts with the basic assumption that with the TEU, new possibilities exist for dealing with common problems. Proponents of this school argue for the rapid and comprehensive implementation of all the provisions contained in the Maastricht Treaty. They assert that while Maastricht may be imperfect it nevertheless represents progress over the previous situation.

Though heavily criticised (as was the constitution drawn up by the Founding Fathers in the early days of the US, for example), the TEU is now regarded as fully legitimate — at least in formal terms. The political leaders and parliaments of the member states, according to this view, did not ratify Maastricht because of external or other pressures. The TEU thus reflects the implicit conviction of many political representatives in Europe that with the provisions, mechanisms, and resources of the Maastricht Treaty, the EU will be better equipped to face future challenges than before.

By fully implementing the Treaty, the EU, then, will regain external credibility and internal legitimacy. European citizens may be better equipped two years from now to appreciate what can be achieved with Maastricht's provisions than is the case today. Proponents of this school of thought would argue that most of the criticism in 1992-93 was not caused by the Maastricht Treaty itself but rather by other Community developments outside the immediate objectives of the TEU, or even more fundamentally that such criticism was the product of a general "political malaise" which latched on to the Maastricht process, using it as a symbol for wide-ranging dissatisfaction with the political class and system, even though it was in fact not to blame.

Using the TEU as a sort of pre-constitution will, according to this view, lead to the increasing acceptance of this *fait accompli*. The performance of the new system will ultimately be of major importance for its reputation. The new status quo, as laid down by Maastricht, may become a generally-accepted constitution.

Whatever changes in the political and international environment have been and will continue to be made following 1989, in the wake of Maastricht the European states will dispose of better pre-conditions for dealing with Europe's problems, including those of enlargement. For this school, Maastricht is not the product of a unique and no longer pertaining situation, but provides "windows of opportunities" for dealing with new kinds of problems inside and outside the Europe of the European

Community.

By implementing Maastricht, the “constructive ambiguities” of the overall text and many of its provisions, will come to the surface. Incremental implementation makes available a certain range of different tendencies, such as a more federal interpretation, for example. This could be achieved by giving the EP all the powers foreseen in the Treaty, or by strengthening the European Council (stressing the respective provisions in that direction). Other provisions to be exploited are the role of the Committee of the Regions, and the principle of subsidiarity. Already in the implementation of Maastricht’s main provisions, the EU can demonstrate a certain flexibility and prepare the ground for further developments which will be put forward by the schools of thought analysed below. Post-Maastricht strategies, then, are based on an approach of how to work with and within the TEU framework.

Enlargement to include the EFTA countries is not a major problem so long as the TEU is fully accepted and applied by the EFTAns - which is held to be the most probable attitude of these governments.

2. The “piecemeal engineering extrapolation” of Maastricht.

The “Maastricht-as-a-significant-and-useful-step” school puts less emphasis on the numerous shortcomings, inconsistencies and contradictions of the TEU, and more on its place among underlying trends in West European political and social developments.

According to this interpretation the historic “changes” following 1989 have not really affected the fundamental reasons for further integration: the in-built propensity for interdependent European welfare-states to create efficient institutions and procedures for implementing effective mechanisms to shape the European and global situations and thus (an important element) stabilise European democracies. Maastricht, then, is an important step in a piecemeal strategy for engineering a new stage in the evolution of European states. The TEU, then, is a step/stage in an open-ended, evolutionary process which lacks a clearly-defined or recognisable goal.

The “product” (the TEU) as laid down at Maastricht is a typical package-deal which reflects the several and differing priorities of the member states and political forces prevailing when the IGCs were held in 1991. The formulation of new and additional interests will create the dynamics for some kind of upgraded package-deal in the near future.

Maastricht’s perceived legitimacy gap is the product of a cyclical

“hostile environment”, influenced especially by the economic downswing. With a return to economic growth and new success stories, support for the EU will return — as the history of the last forty years has proved. The legitimacy of the EU, then, is mainly regarded as a factor of the material well-being of its citizens.

The next IGC may review the division of competences along the lines of the subsidiarity principle, but such a check will not make much difference, since a narrow interpretation does not take account of the spillover effects of interdependent policy sectors, and the in-built trend towards package-dealing among member countries. This sceptical assessment of the subsidiarity principle also reflects the lessons that can be drawn from existing federal states, such as the US and FRG. A “neo-medieval” situation of overlapping competences would be one consequence. Public policy mechanisms originating from different government levels may be merged or even fused. A new cooperative federalism could be achieved, which might also take into account the interests of the regions/Länder.

More significant than the rather academic debate about the application of subsidiarity to the new IGC, according to this view, is to reduce the variety (and inconsistencies) of procedures for preparing, taking, and implementing decisions (presently at least 23!), and the contradictions between the three ‘pillars’ of the Union architecture. In general terms, the performance of the EU should be improved by *intégration rationalisée*. However, a rather complex set of procedures involving a larger number of actors at the different governmental levels (EU, national and, where extant, regional) remains unavoidable. The Committee of the Regions may gain incrementally some new, though limited, powers.

As to the nature of the constitution, the Maastricht Treaty is held to offer the main ingredients of a constitution already. Certain elements, such as a charter of human/political rights, may be added. As regards the admittance of more countries, the relative utility of the TEU and *intégration rationalisée* will, according to proponents of this view, also be supported by the political class of the applying EFTAns, which may be keen to employ existing procedures and mechanisms. Hence enlargement will not cause a major upheaval for the EU.

3. The upward-directed federalisation reform of Maastricht.

The “Maastricht-as-an-important-but-imperfect-step-towards-a-federal-constitution” school has been discussed quite often in the aftermath

of the European Council session at Maastricht. The 1996 IGC was seen at that time as the next (hopefully final) step, a qualitative leap towards a “real” federal constitution for a political system which might then be called the “United States of Europe.”

The changes of 1989, according to this viewpoint, have increased the international and pan-European demands for more efficient, effective, and democratic institutions for the EU. Time is short: serious progress must be made if the imminent process of general “Balkanisation” is to be avoided. Concurrently, former external constraints on European states to move ahead were removed with the end of superpower bilateralism. The TEU already signals a future marked by a higher degree of responsibility, and freedom of manoeuvre, for Europeans.

As for the contents of the constitution, these should follow the doctrine of classical federations as far as the division of competences is concerned. The presumption regarding the application of the subsidiarity principle is that using more centralised public mechanisms at the European level will be necessary.

As regards the horizontal political system vis-à-vis binding decisions, this school envisages a two-chamber system (with the EP as the first chamber) and a strong government. The Committee of the Regions will not be upgraded. Majority voting criteria need to be strengthened and extended to new areas.

A new federal constitution would only enumerate basic principles and rules. Most of the TEU’s articles would be eliminated from a short, and if possible, inspiring text.

The EP is seen as a major driving force behind drawing up a constitution in an open, Europe-wide grand debate. One major conclusion drawn by this school from the legitimacy gap in the wake of Maastricht concerns the procedures for drafting the constitution. This should no longer be done by diplomats behind closed doors, but by some kind of constituent body involving parliamentarians from different levels. Acceptance of decisions in a ratification process which needs a strategy for anticipating success, implies participation in decision-making.

By 1996 hesitant member states should (with luck) be convinced of the merits of a qualitative leap towards a United States of Europe. If this does not happen, a “European nucleus” is envisaged: the process towards a strictly federal model should not be blocked by undecided countries. Enlargement should only occur if applicant countries hold similar opinions, and only following a decisive step towards a federal Europe, since otherwise new members may turn out to be “Trojan horses.” Significant

steps towards installing a certain degree of irreversibility towards a federal Europe need, therefore, to be taken before the next phase of enlargement.

This school stresses a federally-oriented interpretation of the TEU’s new elements (even though the term “federal” had to be dropped at the last moment), and highlights for example the enlarged role of the EP.

The deep-seated legitimacy gap will only be overcome by a democratic constitution of, by, and for the European people — thereby finally creating a “classical” state at the European level which would extend solidarity to all the Union’s citizens.

4. The downward-federalisation reform of Maastricht.

The “Maastricht-as-a-premature-and-overly-ambitious-step” school became increasingly important during the ratification and referendum debates. The major achievements of the Maastricht Treaty have been criticised as overly centralising and bureaucratic, the reflection of excessive ambitions — especially as far as currency and defence policies are concerned, although other areas such as social and cultural competences have also been cited.

This school would not abolish the EC/EU, but rather seeks its comprehensive reform or overhaul. Adherents to this view argue that future strategies should aim to produce a “leaner” product. The subsidiarity principle should be strictly applied in order to redistribute excessive Community powers both to member states, and where existent, the regions. The new constitution should clearly delimit the EU’s sphere of action with a short and binding list of enumerated exclusive competences. In unclear cases the presumption would be that national or regional governments are responsible for employing public mechanisms. The EU would become the level of last resort.

Accordingly, the powers of the EU’s institutions should be re-balanced. Independent institutions at the European level, such as the Commission, EP, and Court are held to be in-built forces driving towards over-centralisation and should therefore have restricted powers to prepare, take and implement decisions. According to the various concepts of downward federalisation, namely re-nationalisation and regionalisation, either the Council and/or the Committee of the Regions should be upgraded. The Committee of the Regions might receive the status of a third chamber, if, and in so far as, the Council and the EP themselves become chambers.

This concept foresees a profoundly altered situation in the “New Europe” following 1989. The change of constellations also relates to the (West) European integration process which should lead to quite fundamental adaptations of the Maastricht Treaty and its implicit “European vocation”. The nation-state remains the basic unit and the “master of the game”, but it is prepared to accept certain forms of common action. The EC/Union should be modelled along the lines of a confederation, increasing the procedures for cooperation. The 1996 conference should therefore break with the fundamental trends of the last forty years in favour of the “right” direction. The aim is not Maastricht II, but rather a reformed and weakened Rome-Maastricht formula for Europe.

Enlargement to include EFTA, and the demands of Central and East European countries for admittance, are viewed positively, for fundamental as well as tactical reasons. These countries will dilute the political strength of the Community’s orthodox hardliners and replace them with “reasonable people.”

Despite all criticisms, dissolving the EC/EU is, however, regarded as an excessive response by this school. Reform in favour of a *Europe des nations et régions* will undoubtedly reduce the perceived legitimacy gap. The lack of democracy at the European level can be overcome by re-nationalisation.

5. The “dissolution/revision” of Maastricht.

The “Maastricht-as-a-last-already-outdated-and-therefore-counterproductive-step” school has gained increasing support. The West European integration process is seen as a by-product of post-World War II Europe. With history no longer immutably frozen, cycles of competition between nation-states will again dominate artificial efforts at “supranational” integration, which were only able to survive because of external threats. The change of paradigms in 1989 is interpreted as a return to traditional and perennial patterns of inter-state behaviour. The European nation-state, following years of (externally-enforced) hibernation, is alive and well.

The legitimacy gap reflects a basic historical pattern which can not be remedied by limited institutional or constitutional engineering at the European level: the EU is undergoing a fundamental identity crisis which it can not resolve by incremental reforms, whatever direction these may take.

The EC/EU, and especially the Maastricht Treaty, is seen as a threat to the key attributes of constitutional states and core functions of the nation-state, such as defence and monetary sovereignty. In its main provisions, the TEU represents a dinosaur which may survive for a limited period, but will certainly be replaced by more competitive forms of cooperation and coalition-building among (West) European states.

The Maastricht Treaty, then, should be abolished or fundamentally revised. Alternative forms of organising Europe need to be created, such as confederal structures, core groups, Europe *à la carte*, and a variable geometry Europe. Moreover, member states should as a general principle be given extensive possibilities to opt out of existing policies. All these efforts will ruin, or at least reduce, the legal and institutional characteristics of the present EC/EU. Consequently there should be a shift away from binding decisions to regimes of cooperation; from a strong role for independent institutions towards looser forms of intergovernmental cooperation; from the straight-jacket doctrine that all members *need* to have the same rights and obligations towards the voluntary cooperation of interested countries. The principle of subsidiarity is interpreted along geographical and sectorial lines: those countries willing and able should cooperate in fields of common interest; others may join later.

This school of thought, then, is also disposed to undo presently existing provisions, partly so as to save national constitutions from being eroded by supranational and hence ‘unhistorical’ enterprises.

By this process of dismantling the EU, the artificial division between Eastern and Western Europe will be overcome as well. Enlargement of the EU as such is no longer a major issue.

The best strategy to pursue may be to opt out of the present treaty obligations and supersede existing structures with new and more flexible regimes of cooperation. The 1996 IGC should (at best) be turned into a “market” for new opportunities in which the supply and demand for solutions to problems in all European countries are matched.

III. Where to go from here?

1. Overview: a point for further debate.

As a way of provoking further debate it is worth comparing the usefulness of each strategy in tackling the problems ahead for European citizens (admittedly a rather subjective assessment), and the respective

feasibility of each strategy in different contexts and scenarios. For this purpose two scenarios are presented. Scenario I assumes the economic and political spheres improve. Economic growth increases interdependence, improves the general public's mood, and creates a climate of open relations among European countries. In the political sphere, governments in European countries regain stability, legitimacy and general backing for innovative steps forward. Scenario II represents a trend towards severe economic collapse in East and West Europe, rising nationalism, and increased distrust among states. Weak governments try to shift the burdens of economic and social adaptation onto the outside world, thus resulting in a vicious circle of disintegration.

<i>Schools of thought on post-Maastricht strategies</i>	<i>Scenario I</i>		<i>Scenario II</i>	
	<i>utility</i>	<i>feasibility</i>	<i>utility</i>	<i>feasibility</i>
<i>implementation</i>	high	high	limited	high
<i>extrapolation</i>	high	high	high	medium
<i>upward federalisation</i>	medium	low	high	non-existent
<i>downward federalisation</i>	medium	medium	medium	high
<i>dissolution</i>	negative	low	negative	probable

As the long list of options and the open and controversial debate about useful and feasible strategies indicate, many of these arguments are in an initial phase of winning political support. Too many elements of the political and economic contexts remain uncertain, so that no dominant concept and/or strategy can be identified. For some reason, despite (or precisely because of) the number of proposals, there lacks a driving force which can set the process off towards a new goal. It may be necessary to wait for certain political events to pass, such as the German and Italian parliamentary elections, the presidential election in France, and the referendums in candidate countries. In the wake of these political events certain strategies may seem more promising than others. By the middle of 1995 we will also know more about the fundamental characteristics of the scenarios, such as the EU's economic performance in general, and that of individual countries in particular.

2. The political and academic debate

Highlighting these political variables is not, of course, to suggest a wait-and-see attitude. Crucial questions, such as those discussed by the

schools of thought, need to be urgently debated across Europe in order to prepare the way for more concrete strategies when (if) a political "window of opportunity" is created.

More importantly, the risks of easy answers seem to increase with alarming speed. Maastricht is quite frequently not debated any more, but simply used as a negative symbol. Blaming Brussels, the Commission and the EP for all shortcomings may fundamentally undermine any chance of serious and lasting reforms. The temptation to propose simplistic solutions, for example stressing simply more cooperation or building an *à la carte* Europe of reborn nation-states may seem seductive, but its effects will be highly negative. The problems of Europe are not those between Brussels on one side, and national or regional capitals on the other, but rather among political groups within and between member states. More cooperation leads to more bureaucratic inefficiencies and less effectiveness, and thus to an even greater erosion of the nation-state and a widening of its legitimacy gap. This fundamental lesson needs to be demonstrated at every opportunity. Rationality and democratic standards demand clearer, more efficient, and more effective institutions and procedures for the EU.

Such a process can not be restricted to twelve members but must be open to all democratic states which can work within and profit from this new political system. In this sense, then, admittance is important, but it is not the main issue which needs settling. Pursuing a strategy of downgrading the EU will not satisfy a list of concerns, but rather open up a Pandora's box of additional problems, comprising some of the traditional issues of European history — especially the power of Germany and Europe's role in the international system.

A wait-and-see strategy is also quite risky. The issues at stake are too important to permit a tactical hibernation: fundamental changes in public perceptions may occur, which will prove difficult to alter even when the economic situation improves. Retreating one step back in the expectation of a larger leap forwards is not advisable.

A third risk is that of exaggerating a "paradise" solution. In bad moments, proposals for a radical, once-and-for-all solution, a qualitative leap towards a fully-fledged federation, may seem more rational and tempting than in times which are fairly favourable. Yet without a strategy which mobilises sufficient support, the avant-garde may lose touch with the main corps and end up heading in the wrong direction.

More so than in the past, an original vision of the European Union, distinct from all historical models so often quoted, needs to be elaborated, taking into account the strong and weak points of Maastricht and the challenges ahead.

FEDERALISM IN THE CONSTITUTIONAL DEBATES IN RUSSIA OF 1992-1993: A REVIEW

SERGEI A. BELIAEV

Introduction.

The major issue in constitutional discussions of the federal organization of Russia since the 1990s was the question of the separation of power and competences, primarily within the federal authorities between the President, the executive and the legislature. However, the centre of debates had moved by the end of 1993 to the opposition of federal authorities in Moscow, on the one hand, and the republican and regional bodies, on the other.

In 1991-1993 a new set of draft constitutions was prepared within the Russian parliament — the Supreme Soviet. A group of politicians close to the President prepared a version of a new constitution which was published on 30 April 1993. This version became known as a “presidential” or “Yeltsin draft.” The presidential draft constitution became part of a political plan aimed at changing the balance of power in favour of the presidential team and at legitimising its power. This chain of events included the referendum of April 1993, the convocation of a Constitutional Conference (*Konstitutsionnoye Sovieshchanye*) in June 1993, the removal of the vice-president and some ministers from their positions in August and September 1993, the dissolution of the parliament in September 1993, and the organization of the early election of a new parliament together with the referendum on the Constitution on 12 December 1993 which adopted a definitive final constitutional draft.

The constitutional debates on federalism are further analyzed below on the basis of comparison with the main drafts of the constitution:

- the constitution, adopted in 1978 and amended in the second half of the 80s and in the beginning of the 90s;
- the draft constitution of 1990 with some modifications in 1991-1993 prepared by the Constitutional Commission of the Congress of the People's Deputies (referred to here as the “Rumiantsev draft” after the executive secretary of the Commission);¹
- the Yeltsin draft of the April 1993;²
- the draft of 15 July 1993, adopted as a result of the Constitutional Conference;³

— the current constitution, prepared in October and November 1993, by the reconvened two-chamber Constitutional Conference and adopted by the referendum of 12 December 1993.⁴

The most controversial points of debate about federalism became the status of the President as a supreme federal institution, the competence of the parliament and of the government, the separation of powers, the balance between the federal institutions and federated components, as well as the position of the federal treaty. A comparative analysis of provisions of the main constitutional drafts gives an idea of the evolution of federalist debates in Russia and the dynamics of the struggle of political forces of the Russian Federation for their legitimisation.

General Points of Constitutional Discussions on Federalism in Russia.

The structure of the drafts includes the issues of constitutional federal order, relationships between the state and the individual, competences of the president, the legislative, the executive, the judiciary and other institutions. The drafts of 1992-1993 contain similarities and sometimes repeat each other.

The amended 1978 Constitution defined the Russian Federation-Russia as “a sovereign federal state created by peoples historically unified in this state” (Art. 1). The basis of the constitutional order of Russia is defined as “democracy (*narodovlasteye*), federalism, a republican form of governance and the separation of powers” (Art. 1). Article 2 provides that “all power in the Russian Federation belongs to the multinational people on the Russian Federation.” Many provisions of the Constitution mention the role of the Soviets in society.

The Rumiantsev draft conceives of the Russian Federation as “a sovereign, democratic, federal and social state based on the rule of law (*pravovoye*)”⁵ (Art. 1). The Constitutional Conference draft of July 1993 defined the Russian Federation as “a sovereign, democratic, federal state based on the rule of law, with a republican form of government” (Art. 1). Article 1 of the draft adopted by the referendum of 12 December 1993, proclaims: “The Russian Federation-Russia is a democratic, federal state based on the rule of law, with a republican form of government.”⁶

The amended 1978 Constitution contained in Article 70 the phrase that “the territory of the Russian Federation is integral and inalienable.” This formulation disappeared in some drafts and reappeared in the draft of July 1993 (Art. 4), which defined the Russian Federation as “an integral and indivisible state.” The version of July 1993 included such

definitions “as an integral and indivisible state” and “the unity of the state” (Art. 4).

The definition “integral and indivisible state” disappeared in the final draft of November 1993. However, Article 4 (1, 2) underlines the extent of sovereignty of the Russian Federation and the predominance of the constitution and federal laws throughout its territory. The same Article 4 (2) states: “The Russian Federation guarantees the integrity (*tselostnost*) and inviolability (*neprikosnovennost*) of its territory.”

Article 5 (3) mentions that the federal structure is based on “its state integrity.” These provisions were understood as an insistence on the absence of the right to secede from the Russian Federation. The right to self-determination was nominally preserved in the final version of the Constitution (Art. 5, 3). However, President Yeltsin made a reservation in his speech in November 1993, declaring that the right to self-determination “excludes the right to secession from Russia.”

It is remarkable that human and individual rights and freedoms are in no way a point of debate. The whole catalogue of human rights from international documents was included in the amended Constitution of 1978 (Art. 31-67) and in all the drafts under discussion.

Since the scope of provisions for human rights and fundamental freedoms was accepted by all political forces in the constitutional debates, the instruments of their practical implementation became a critical point. One such instrument is the Constitutional Court. The Constitutional Commission draft extended the right to complain and protest in the Constitutional Court to “physical and juridical persons” if they have exhausted “other juridical means of protection by law” (Art. 100, 6, b). The Yeltsin draft of April 1993 expounded very briefly the competence of the Constitutional Court, limiting the objects of regulation and subjects of regulation and excluding from the latter individual persons (Art. 121 and 122). On the contrary, the Constitutional Conference draft was very inclusive and clear. Article 125 contained the following provision: “The Constitutional Court of the Russian Federation upon individual requests shall verify the conformity to the Constitution of the practice of application of the law in the field of protection of constitutional rights and freedoms of an individual and citizen.”

Again, the final draft constitution presented this clause in a very contradictory and vague form: “The Constitutional Court of the Russian Federation, on the basis of complaints regarding the violation of citizens’ constitutional rights and freedoms and at the request of judges, will examine the constitutionality of the law that has been applied or is

applicable in the specific case, in accordance with the procedure laid down by federal law” (Art. 125, 4).

This means a practical abrogation of the right to individual recourse in cases of human rights violation which diminishes the competence of federal institutions in this field.

Status of the President as a Supreme Federal Institution.

As long ago as autumn 1992 the major point of constitutional debate had become the issue of the status of the President within the federal state and the separation of powers between the President, the parliament and the government and the institutions of the federal units.

The amended 1978 Constitution defined the President of the Russian Federation as “the supreme official personality and the head of the executive power in the Russian Federation” (Art. 121). The Constitutional Commission’s draft defined him as “the head of state and the supreme official personality in the Russian Federation” (Art. 92). The presidential draft of April 1993 pointed out that the President is the head of state and moreover “the guarantor of the constitution and of the rights and freedom of citizens” (Art. 80).

Besides these provisions, it is held that “within the procedures established by the Constitution he adopts measures to protect the sovereignty of the Russian Federation and its independence and state integrity and ensure the coordinated functioning and interaction of all state organs” (Art. 70). This provision gave grounds to the opponents of Yeltsin to conclude that the President is not only excluded from the system of three types of powers, but is placed above this system, which is “typical for authoritarian regimes.”⁷

To establish a compromise, this provision was preserved in the Constitutional Conference draft, but supplemented by the following phrase using the restrictive role of the constitution and federal laws: “The President of the Russian Federation uses the powers vested in him by the Constitution of the Russian Federation and the federal laws to carry out the electoral political and economic programme” (Art. 80).

This formulation was modified in the final version as follows: “According to the constitutional and federal laws the President of the Russian Federation defines the main directions of the internal and external politics of the state” (Art. 80, p. 3).

Such a formulation was the result of a desire to find a broad constitutional framework for the activity of the President.

According to the final draft constitution approved by the referendum the President submits to the Federal Assembly a candidate for appointment to the post of President of the government and President of the central bank, the latter on the recommendation of the chairman of the government and after consultation with the Council of the Federation; and makes appointments to the posts of federal ministers and chiefs of federal departments (Art. 83). The President submits, according to the final draft of the Constitution, candidates for appointment to the post of chief justice of the Constitutional Court, of the Supreme Court and of the Superior Court of Arbitration, and the post of general prosecutor of the Russian Federation (Art. 83). These prerogatives are substantially more comprehensive than those in any other version of the Constitution.

At the same time, in comparison with the Constitutional Conference draft, the mild innovation of the final version of 10 November 1993 was the right of approval by the State Duma of a candidate for the post of chairman of the government, limiting the competence of the President on this point (Art. 83, a).

The Constitution of December 1993 affirms that the President appoints and dismisses the head of the administration and other officials, plenipotentiary representatives of the President in the regions, the supreme command of the armed forces and, after consultation with the parliamentary committees and commission, appoints and recalls the diplomatic representatives of the Russian Federation (Art. 83).

According to the new Constitution, the President is supreme commander in chief of the armed forces (Art. 87). He heads the Security Council (Art. 83). The President is entitled to introduce martial law in conditions of aggression towards the Russian Federation or for the immediate threat of such aggression (Art. 87) and a state of emergency in the circumstances and following the procedures of the Constitution and the Federal Constitutional Law (Art. 88). Articles 87 and 88 define a very weak condition for the introduction of martial law and a state of emergency — the notification of the Council of the Federation and the State Duma about these decisions “without delay.”

A very broad competence of the President was expressed in Article 80 of the April 1993 draft. The President is considered to be an “arbiter in disputes between state organs of the Russian Federation and components of the Federation, and also between state organs of the components of the Federation” (Art. 80). If agreement is not reached, he passes the disputes to the Constitutional Court of the Federation for examination. The Constitutional Conference draft reduces this competence to the right to

“use reconciliation procedures to settle disputes” and to “pass this solution of the dispute to the relevant court” (Art. 85, 1). The final version of the Constitution has preserved this provision in force.

Article 80 of the first Yeltsin draft was designed to provide a very comprehensive competence of the President concerning the suspension of a series of acts of state organs of the Russian Federation, subjects of the Federation or organs of local self-government which contradict, in his opinion, the Constitution or the Federal Treaty, or violate rights and freedoms of individuals. The President submits such acts to the appropriate court with “a demand for the elimination of these violations.” Apparently, Article 80 was supposed to transfer most of the competences of the Constitutional Court to the President and to reduce the powers of relevant courts to the execution of decisions of the President.

After discussion in the Constitutional Conference, Article 80 of the first Yeltsin draft (Art. 85 of the final draft) was partially reduced to the right to suspend “the acts of the executive authorities of the subjects of the Federation in case of contradiction by those acts of the Constitution of the Russian Federation or in case of violations of the rights and freedoms of individuals until the decision of this issue by a relevant court.” However, the final version of the Constitution extended these reference documents not only to the provisions of the Constitution, but also to “federal laws and to international obligations of the Russian Federation” (Art. 85, 2).

As regards the legislative body in its relationship with the President, the Rumiantsev draft stipulated that the only representative and legislative body of the Russian Federation is the Federal Assembly (Art. 84). The Yeltsin draft omitted the definition of “only” and “representative” in the wording of Chapter 5 (Art. 80). This was considered by the opponents of the President to be an attempt to transfer legislative competence to the President. The compromise version of July 1993 mentions the Federal Assembly as “the representative and legislative body of the Russian Federation” (Art. 93). This formulation was preserved in the new Constitution (Art. 94).

The structure of this body is based on the model of major federal states, in particular the bicameral parliament: the Upper Chamber, the Council of the Federation (*Soviet Federatsii*) and the Lower House, the State Duma (*Gosudarstvennaya Duma*).⁸ The initial presidential draft seriously cut the competence of the parliament in the budgetary sphere (Art. 92). The compromise draft of July 1993, reestablished to a large extent the powers of the State Duma in the sphere traditional for the Lower House.

To sum up, all the important elements of the President's status have remained intact in the new Constitution, even if partially restricted in comparison with the initial presidential draft. The scope of federal competences of the President is relatively extensive. In the opinion of certain experts these competences are analogous to the competences of the presidential regime of a unitarian state such as France.

The Components and Structures of the Russian Federation.

The constitutional evolution of the status of federal and federated structures helps demonstratively to define the main trends in the struggle of political forces. The amended 1978 Constitution determines the status of components of the Federation in the following order:

- republic within the framework of the Russian Federation;
- autonomous region (*oblast*) and autonomous district (*okrug*)⁹;
- territory (*kray*), region (*oblast*), city of federal importance.

Of these components only republics were defined as “states possessing full state power, except the powers transferred to the jurisdiction of the Russian Federation” (Art. 78). The republics possess their constitutions “in accordance to the constitution of the Russian Federation.” The status of the autonomous regions and districts is determined by the laws adopted by the Supreme Soviet. In the amended version of the 1978 Constitution the territories, regions and cities of federal importance obtained the right to have their status (*ustav*) “in accordance to the Constitution and the laws of the Russian Federation” (Art. 78). The 1978 Constitution did not use the term “subject” or “component” of the Federation.

The draft of the Constitutional Commission of the Supreme Soviet changed the order of components of the Russian Federation, and the territories and regions moved from third place to second in this hierarchy (Art. 75). The formulation of the status of territories and regions became more extensive, but not equal to the status of the republics (Art. 75, 2). The Yeltsin draft of April 1993 presented a very short description of the status of components of the Federation (Chapter 3).

The Constitutional Conference discussed — as one of the most important issues — the equalization of the status of the components of the Russian Federation. As a consequence of these debates a new formulation appeared in the text of 12 July 1993. The draft (Art. 5) defined the Russian Federation as a federal state consisting of “republics, territories, regions, cities of federal importance, autonomous regions, autonomous districts — all being equal subjects of the Russian Federation.” It was confirmed

that “the subjects of the Federation possess equal rights in their relations with the federal bodies” (Art. 5). This was an important step on the way to equalization of the components of the Federation.

The final version of the Constitution includes the formulation from the Constitutional Conference draft. At the same time the “sovereign” attribute has been dropped in respect to the Russian Federation, as well as in respect to the republics within the Russian Federation in Article 1. Article 3 mentions that “the multinational people of the Russian Federation is the bearer of its sovereignty and the only source of power.” Article 4 notes that “the sovereignty of the Russian Federation extends throughout all its territory.” This gives reason to believe that the drafters were inclined to articulate the doctrine of “indivisible sovereignty” which is implicitly attributed to the “multinational people” and to the Russian Federation. This emphasis in the definition of the Russian Federation is confirmed by Article 5 which does not mention the wording “a federal state”, and by statement in the same article that the “federal structure of the Russian Federation is based on its state integrity, the unity of the state power system, the separation of jurisdiction and powers between the power entities of the Russian Federation and those of its subjects.”

According to the final version of the Constitution, external economic relations, foreign policy, international relations, international treaties, questions of peace and war, as well as defense and security are in the Federation's exclusive competence (Art. 71, k, l, m) which is typical for many federations. The coordination of international relations and external economic relations of the subjects of the Russian Federation and the fulfilment of international treaties of the Russian Federation fall under the concurrent competences (Art. 72, o).

A serious issue in the discussion was the right of republics to introduce their own citizenship. The right to have separate citizenship was expounded explicitly in Article 6 of the Rumiantsev and the Constitutional Conference drafts and very briefly in the Yeltsin draft of 30 April 1993 (Art. 38). The territories and regions, as well as other components of the Federation, are deprived of this possibility; it was felt to be dangerous to have a different scope of rights for different groups of population throughout the Federation and inside the components of the Federation. This was the reason for the reference in the initial Yeltsin draft: “The law on the rights and obligations of citizens must be general, must apply equally to all citizens, and must not create any advantages or privileges for any one of them apart from those envisaged by the Constitution and the law for the purpose of citizens' social protection” (Art. 39).

This possibility of violation of the equality of rights and obligations for certain parts of the population led to the introduction, in the compromise draft of the Constitutional Conference, of the phrase: "The citizens of the Russian Federation enjoy full rights in the republics where they live" (Art. 6).

Both reservations limit the right to citizenship of the republics. This confirms some real danger of the violation of human rights and fundamental freedoms. Article 6 (2) of the new Constitution stipulates only: "Every citizen of the Russian Federation possess within its territory full rights and freedoms and bears equal responsibilities laid down by the Constitution of the Russian Federation."

The confirmation of the right to introduce citizenship by the republics is missing from the Constitution, but it is implicitly recognized that such a citizenship could be introduced on the basis of Article 73 referring to the scope of the jurisdiction of the republics.

The federal balance was directly affected by the distribution of competences between the Chambers of the Federal Assembly. While the draft of the Constitutional Commission gave more competences to the Lower House (Art. 89), the presidential draft of April 1993 bolstered the competences of the Upper House — the Council of the Federation (Art. 101). The representation of republics and national-territorial units (autonomous regions and districts) in the Council of the Federation with the condition of "at least 50 per cent" of the total number of members of the Council (Art. 85), was interpreted by some participants in the Constitutional Conference as discriminating against the ethnic Russian territories and regions.¹⁰ This provision was changed in the compromise draft of July 1993. Its Article 94 provides: "Two deputies from every subject of the Russian Federation are to be elected to the Council of the Federation."

The new Constitution defines the position as follows: "Two deputies from each subject of the Federation — one from the legislative body and the second from the executive body of the state power — comprise the Council of the Federation" (Art. 95).

Such a composition of the Council of the Federation presupposes the presence of representatives from at least 30 republics, autonomous regions and districts, on the one hand, and from 57 ethnically and historically Russian territories, regions and cities, on the other.¹¹

The new Constitution enumerates the exclusive competences of the Russian Federation in a way which is identical to the federal treaties and the previous drafts. Article 72 on the joint jurisdiction of the Federation

and its subjects includes an explicit set of competences: in particular, such important sphere as "questions of ownership, use and disposal of land, minerals, water and other natural resources" (Art. 72, c). This represents a relative move towards the equalization of the subjects of the Federation in comparison with other drafts and the Federal Treaty, where such competences were attributed in various ways, to different types of components within the Federation.

Another potentially important issue is discussed in Article 67 (3) of the Constitution which provides that: "The borders between subjects of the Russian Federation can be changed by their mutual consent."

At the same time the exclusive competence of the Russian Federation involves such vaguely formulated issues as "the federal system and territory of the Russian Federation," which could provoke a series of collision over practical implementation. None of the drafts mentions constitutional means of changing the composition of the subjects of the Russian Federation, their division or their merger. Indeed, the only legal means for these processes — a kind of "self-determination by the subjects of the Russian Federation" — is local self-government. However, the number of articles on local self-government dropped from 13 in the amended 1978 Constitution to 4 articles in the drafts published in July and November 1993 (Arts. 130-133). However, the institutions of local self-government could provide not only a means of solving inter-ethnic problems, but also a basis for the re-birth of democratic federalism in Russia.

The Position of the Federal Treaty within the Constitutional Framework.

The subject to be dealt with through the federal treaties concluded in spring 1992 was "a delineation of spheres of jurisdiction and powers" between the federal organs of state power of the Russian Federation and the respective organs of components of the Federation. It is supposed that these three treaties would be part of the Constitution in the form of a Federal Treaty. This idea gave grounds for different interpretations of the question whether the Federal Treaty would be part of the current Constitution or would form part of a new Constitution which was already under discussion. The Constitutional Commission of the People's Congress was reluctant to include the federal treaties in the Constitution. It is stressed that the subject of the three treaties was a delineation of spheres of jurisdiction and powers, but not the creation of a new Federation. Nonetheless, the Federal Treaty was published in 1992-1993 as part of

the amended 1978 Constitution.

The Yeltsin draft of April 1993 mentioned the Federal Treaty as a source for constitutional provisions in Articles 5, 56, 57, 61, 62 and others. Such references were dropped in the compromise draft of July 1993, and not reinstated in the final draft Constitution (except Article 11).

The final draft mentions in "Concluding and Transitional Provisions" (1) that in the case of incompatibility of provision of the Federal Treaty with provisions of the Constitution "provisions of the Constitution prevail." The republican and regional authorities have responded negatively to the diminution of the status of the federal treaties within the constitutional framework of the Russian Federation.

Conclusion.

Formally, the balance of constitutional federal powers has moved in the new Constitution in favour of the President. However, the federal crisis acquired a new dimension, because the centralist tendency, as well as the adoption of the Constitution, was supported by the forces of the extreme right. Dispite the gradual overcoming of a three-level status for the subjects of the Federation, the republics and regions are dissatisfied with the attempt to extend the powers of federal structures over the components of the Federation.

The evolution of formulations in the constitutional drafts and in the adopted Constitution reflects more a balance of political forces and the *de facto* situation than a realistic method of Constitutional federal development which should be based on as low a level and broad a participation as possible. The political instability and devolutionary trends of federal structures, institutions and processes are making the consistent implementation of the new Constitution very problematic.

NOTES

¹ FBIS Central Eurasia Daily Report Supplement, FBIS-SOV-93-091-S, 13 May 1993.

² FBIS Central Eurasia Daily Report Supplement, FBIS-SOV-93-083-S, 3 May 1993.

³ FBIS Central Eurasia Daily Report Supplement, FBIS-SOV-93-096-S, 26 July 1993.

⁴ BBC SWB, Former USSR, Part 1, SU/1843 C/1, 11 November 1993.

⁵ The term *pravovoye* is translated not only as lawful, but sometimes as "law-governed", or "rule-of-law."

⁶ The double name "Russian Federation-Russia" was initially introduced into the

Constitution by the extraordinary Congress of December 1992, as a compromise between ethnic Russian deputies affirming that the Russian Federation should be considered as Russia or the Russian state, taking into account the absence of the Russian republic inside the Federation, and the deputies from the republics insisting on the multinational federal character of Russia.

⁷ Oleg Rumiantsev, *Konstitutsionnaya Reforma v Rossiyskoy Federatsii (Constitutional Reform in the Russian Federation)*, Narodny Deputat, 1993, no. 10, p. 6.

⁸ The root of the word *duma* is semantically similar to the word "a thought" and "to think."

⁹ According to the Constitution of 1978, there were 16 autonomous and 10 national regions and districts within the Russian Federation.

¹⁰ The number of republics, autonomous regions and districts represents nearly half the number of the Federation's ethnic Russian subjects with ethnic non-Russian populations of no more than 10 per cent of the total population of the Federation.

¹¹ A number of autonomous regions, districts and ethnic Russian regions unilaterally enhanced their status to that of republic within the Federation. These changes were not recognized in any Constitutional draft. The republic of Chechnya has declared its independence, which is totally ignored by the drafters.

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Thirty Years Ago

THE DEFENCE OF EUROPE AND THE SIGNIFICANCE OF NUCLEAR WEAPONS *

MARIO ALBERTINI

In the August edition of the *Revue de défense nationale* General Ailleret, Head of the French Joint Chiefs of Staff, published a speech delivered on 28th June to the former officials of the NATO College, senior officers and high ranking officials from the member-states of the Alliance. This outlined in forthright terms the French government's position regarding the defence of Europe; so much so that the Minister of the Armed Forces, Messmer, confirmed on 21st July that General Ailleret had in no sense expressed his purely personal opinion, which indeed was clear given the general's official position.

After asserting that Maxwell Taylor's "flexible response" theory could be considered correct in general, but wrong in the European context, General Ailleret further sustained during his lecture that: a) a classical defence, or "conventional" one, as it is commonly termed, would not be able to halt the Russians at the iron curtain ("the Rhine would already be a positive result. The Somme, the Aisne, the Vosges, the Jura and the Alps would be more likely"); b) the recourse to tactical nuclear weapons could perhaps serve to halt the invasion, "but the cost for the battlefield itself, in other words for Europe, will be enormous... it is clear that a nuclear exchange, even solely a tactical one, will completely destroy Europe over an area of 3,000 km, from the Atlantic to the Soviet Border". He concluded by affirming that if Europe is to be given real protection, it is necessary to return to the doctrine of immediate strategic

nuclear response.

Is this resort to the concept of an immediate nuclear response right or wrong? In the first place, it needs to be established what the consequences for Europe of the flexible response theory are. In the current situation, this theory represents none other than the intention of defending the West using a strategy that envisages a fully-fledged conventional war in Europe, prior to employing nuclear weapons. In other words, this strategy establishes the possibility that a conventional war in Europe may occur. Alone, divided and without nuclear arms, West Europe's states would be rapidly overwhelmed without suffering tremendous destruction, precisely because of the rapidity of the defeat. But with the help of the US, with its intention to increase its military commitment in line with the adversary's, Europe would witness the flaring up once again on its own soil of a war with maximum destructive potential.

This is an unacceptable prospect. It would represent the third world war, not a limited war. Many millions of people would die, especially civilians. Historic cities, works of art and memories of the past which constitute the greatest living testimony to the development of the civilisation which is currently uniting mankind would be destroyed. This is a civilisation which, though having appeared everywhere, has evolved without interruption only in Europe. For the Europeans who are aware of the irreparability and gravity of destruction of this kind, who have not forgotten the Second, nor even the First World War, and who have not completely lost a sense of responsibility during these years in which Europe's defence has been guaranteed by the Americans, there can be no doubts. It is necessary to reject any policy which may lead Europe towards the possibility of a third world war; everything possible must be done to avert this.¹

But to avoid war there is no other means than the threat of an immediate nuclear response. It is true that when faced with this argument, the brain tries to flee, like a frightened horse, along thousands of paths, one more unrealistic than the other. But our minds should be concentrated firmly on this subject. If we want to avoid a war in Europe, it is necessary to prevent the Soviet Union, in whatever circumstances, and whatever government it has, from fighting in Europe. And there is only one way to prevent them from doing this, the threat of an immediate nuclear response. Nobody has come up with a plan of action which could achieve the same result through other means. And nobody is capable of formulating such a plan. Ailleret is right.²

* This article was published in French in *Le Fédéraliste*, VI (1964)..

In theory, another possibility can be considered, that of neutrality in the narrowest sense. This in no way guarantees that we would not be attacked, but, if applied to the letter, it could guarantee that there would be neither death nor destruction. It would suffice not to react in any way to aggression, to forgo defence in the event of attack. Let the adversary advance without firing a single shot.

Of course, we can not expect European governments to behave this way. As far as the governments are concerned, until a few years ago it was possible to entertain a different hypothesis (even though self-deluding), that of the victory of the Communist parties in France and Italy, the resultant re-alignment of West Germany, and thus the elimination of the risk of war in Europe by means of a permanent alliance between the Soviet Union and all European states. The Communists are still trying to propose this vision, but with increasingly less chance of winning the argument. It has become an accepted fact, and furthermore a dramatic one, that the larger the group of "Socialist" countries becomes, the more division it suffers and the more evident become the classic, traditional, characteristics of the struggle for power between nation-states.

Once the falseness of the Communist peace is demonstrated and once we dismiss as unrealistic the hypothesis that not only the present European governments, but also any other government, be it conservative or revolutionary, of the right, centre or left, would be able to attain a completely passive neutralism, only one option remains to be considered: the organisation of a clandestine body of fanatics committed to carrying out all the necessary acts of sabotage, even assassinations of political and military leaders, to impede the armies of their own countries from engaging in action. Clearly, it suffices to state this hypothesis to realise its absurdity. Nevertheless, it is important to bring it to light in order not to leave any stone unturned in the debate on the defence of Europe.

Let us recapitulate. Flexible response, as it stands today, does not defend Europe, but on the contrary, destroys it. Neutrality is worthless in its active version (react only if attacked) and impossible in the version in which it would be useful, that of rigorous and complete passivity. Do any reject the strategy of an immediate nuclear response while equally seeking to prevent the scourge of a new war in Europe? Let them come forward with proof, let them establish the organisation of fanatics prepared to do anything to prevent the outbreak of war, otherwise we will have the right to consider them liars. Others argue instead that they want to defend Europe without the threat of nuclear response in the event of the risk of a general war? Let them be made aware of their mistake if they are

acting in good faith, and if the contrary is the case, they should be unmasked for what they are, people that do not hesitate to accept the possibility of extermination and destruction in Europe to defend their private interests.

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At this point, all that would remain would be to analyse the political aspects of an immediate nuclear response, were it not necessary first to remove a psychological obstacle that prevents many people from considering the problem of Europe's defence in its real terms. This obstacle stems from the way in which the concept of nuclear response is commonly represented. Is it really the bestial idea that many believe it to be? Without any doubt it would be if the threat of response, let alone the very existence of nuclear arms, really resulted in the possibility of their actual employment. And that is what many fear. Since nuclear weapons have destroyed the possibility of victory, which is the goal of war, nuclear war is in theory impossible. For this reason, it is generally not conceivable that a sane head of state could threaten the security of a nuclear power to such an extent to force it to resort to nuclear weapons. It is even less conceivable that a head of state would, without first being pushed to the edge of the abyss, order the launching of nuclear missiles. But it is nevertheless argued that a head of state could do this if he went mad, or that a nuclear war could be started by mistake.

Before discussing the validity of this concept, permit me a digression. Personally, although I am not religious, I can not consider this idea without a feeling of scepticism, without recalling, almost in spite of myself, Einstein's phrase, "God does not play dice with the universe", and without adding, "therefore not with mankind either".

Hypothetically, "any level of massacre and destruction" can be achieved with nuclear war; hundreds of millions of people can be killed, the human race can be wiped off the face of the earth. And a man, not a god, a man only, mad or mistaken, could trigger this off.

Undoubtedly, it is the most terrible idea that has ever entered the human mind. An idea that should terrify and dismay. An idea that should induce a religious person to ask himself whether the day of the Apocalypse is approaching, a philosopher to re-examine the meaning of the human presence in history, and a scientist to dismantle the idea piece by piece, coldly and deliberately, to see whether in spite of its apparent obviousness it does not conceal an error. But nothing of the kind has happened. This

idea did not lead people to get into touch with the deep aspects of reality it claims to describe. It is normally regarded as something suitable to transmit a thrill of the kind that a horror film or novel arouse, or as an argument to preach with, for the sort of people who care only about themselves, and who for this reason lose their sensitivity to all other things, and hence select from every idea only the aspect which enables them to show off. And that suffices to make one doubt its veracity.

In any case, let us discuss the validity of the idea. These are the facts. Nuclear weapons exist. There are also statesmen who decide whether to use them or not. And, finally, there are soldiers who have the physical possibility to drop or launch them. One of these statesmen could issue the fatal order if he were to go out of his mind, or in response to a presumed nuclear attack by the enemy following an error in the early-warning systems. There could also be another kind of error. In the course of a limited conflict involving (directly or indirectly) two nuclear powers, a statesman can gradually arrive at a point which, to him or to the enemy, no other means of final defence remains except nuclear weapons. Alternatively, some of the soldiers (or pairs of soldiers) who occupy key positions in the military organisation that has the task of launching missiles or dropping bombs, could go mad, or make a mistake due to the malfunctioning of a certain instrument.

On the basis of this description of the elements of the problem, and for each of these hypotheses, a practically endless series of scenarios can be elaborated, which in practice we are actually provided with both by novelists and film-makers, as well as by so-called experts of nuclear strategy, in often not substantially differing ways. But it makes no sense to waste time examining this, because this description, which constitutes the starting point for these scenarios, is false, even if at first glance it seems true, conspicuously true, and therefore beyond any doubt. It is false because of an error of attribution.

According to this description, there are on the one hand isolated individuals (let us consider primarily statesmen), and on the other, the bombs. Bombs alone are worth nothing. It is known that they exist, that they are probably capable of destroying the human race, but it is also known that if humans do not decide to employ them, they are nothing but inert matter that can not cause the slightest harm to anybody. So, this is the point: the taking of the decision to employ them. If this point is seriously considered, it is immediately clear that it is not true that on the one hand there are bombs, and on the other, isolated individuals. On the other hand there are groups, not isolated individuals.

There are the aides of the person who has the legal power to make the decision. There are political parties and the material and moral interests on which these people depend. There are popular assemblies, let alone all the holders of fractions of power, of whatever kind it may be. There is the whole population, there are even the dead, the great ancestors who symbolise the so-called character of the people, that is their most important historic experiences. There is in fact a group which can not be denoted, not even by the word "government", so much does it go beyond it, but only by the word "state", and only when this includes also the concept of "civil society", that is to say the group formed by social interaction which has always constituted, from the beginning of history, the greatest guarantee of responsibility in the control of human behaviour.

It is true, from the legal viewpoint, that the decision lies with a single person, a politician, the head of the executive. That can make it seem that this person could act independently of other people's will, and that he is therefore not bound by all the others, those who do not have that particular right. But this is not the case. An unbreakable bond connects him to other people: the impossibility of effecting his decisions without the participation and consent of other people. It is an absolute impossibility, deriving from the fact that the power to decide and the power to execute do not coincide. In many cases, as in that of the employment of nuclear weapons, the former may be vested in a single person, but the latter always lies with the many. Consequently, the decision of the person who has the right to decide remains a dead letter if it radically contrasts with the vital interests of those who are involved in the execution of the decision, and who in this way find themselves with a strong negative power, the power to impede.³

It is this mechanism, subordinating the statesman to a group (the group of people involved in the execution of a decision), that tends to coincide with the group of all the people who have a vital interest in a decision to be taken. It follows that the more serious a decision is, the more everyone contributes to it, even though they are not directly consulted, except on rare occasions like elections. There is always a statesman who, theoretically, has the right to take the decision alone, but as we have seen, when the content of the decision directly concerns the vital interests of all the members of the state community, this statesman must in practice conform to making the decision only in conjunction with them, and only for them, on pain of otherwise being unable to carry it out. In other words, he could render his power ineffective and thus cease to be, at least in that moment, a statesman. On the other hand, this person, whose personal interest coincides with the general interest, in the attempt to

elevate his spirit to the level of his responsibility, can not do without recourse to the example of his great forebears. And thus, through the subordination of the one to the many and through the wisdom that is handed down from generation to generation, the state effectively achieves the greatest possible responsibility in its control of human behaviour. These are well-known phenomena, at least some of them are. But it is necessary to recall them so as to specify that nuclear weapons, being formally in the hands of the head of the executive, are in practical terms in the hands of all; of all when they display the greatest possible wisdom, when they act as a state.⁴ We should therefore conclude that nuclear war caused by error or madness is impossible. An individual can go mad or make a mistake, but not everybody. With that the problem should be closed, but its gravity is such that it is worth reconsidering our facts, and re-examining them in light of this.

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We now know that we should take into consideration single individuals, but single individuals who have to think as everybody thinks, and who have to decide in accordance with everybody's will. These individuals (let us begin with the statesmen again) can go mad. Then two possibilities exist. The international situation is calm, there is no state of alert and the person in power orders a nuclear attack. Everyone realises that he has gone mad, the order is not executed and the only consequence is his removal. In certain states, this could cause constitutional problems that may be difficult or impossible to resolve in a legal context, but not real practical difficulties. Hamilton stated that revolutionary circumstances, that is exceptionally grave ones, are not resolved by constitutional rules for the obvious reason that these are precisely circumstances which call into question the entire constitutional system.

Alternatively, the international situation is serious and there exists a state of alert. In this case, whoever has the formal power to order an attack is never alone. Such a person is constantly with his aides. And if he should decide, following a fit of madness, to order a nuclear attack (recall that there can not be however, always excepting the eventuality of insanity or error, either a nuclear attack by the enemy, or a situation with no way out except the nuclear one) he would not succeed even in pronouncing it. He would be disproven immediately, and transferred physically to a place where he could do no harm. That is also true for the possibility that during a constantly worsening conflict, out of fear, due to an error or

unconsciousness, the leader could take the ultimate measure, following which no other alternative but the employment of nuclear weapons would be left. In this case, he would be stopped first by his aides. Conversely, an adversary would also react the same way in a similar situation. The emergence of the risk of the use of nuclear weapons by the power without any other options, would become the determining factor in the evolution of the situation. Faced with this risk, the power with the upper hand would immediately ease its pressure until the conditions that do not impose a recourse to nuclear arms by its adversary are re-established.

Finally, the last hypothesis, that of a mistake both by a statesman or a military officer occupying a crucial position, which also includes the possibility of the insanity of the latter. It is very difficult, indeed so difficult, for this to happen that it should be considered only with the aim of constantly perfecting safety procedures, but not as an actual possibility. In order to consider it as a situation in which people could actually find themselves, it is necessary to search as far as hypotheses such as those from the film "Dr. Strangelove", for example. In any case, the mistake of itself does not lead to a war or a massive attack (which would follow only in a second phase, the second phase that will never happen) but only to the launching of a single bomb of the first warning salvo, precisely because, given that it would be in error, all the systems for cancelling the order and stopping or destroying the missiles would be activated almost immediately.

And this launching would not lead to a nuclear war. It is beyond doubt that the very moment after the explosion of a bomb, both on the side of the person who committed the error and of those who suffered its consequences, not only those in power and state bureaucracies, but also all the members of the state community, none excluded, would enter the stage with a single thought, of a heretofore unprecedented intensity. The state would be raised to its greatest responsibility, in its fullest majesty, the only true majesty, that deriving from the people, as Kant stated; and it would be capable of averting massacre and extermination. The head of the executive to whom the mistake would be personally attributable, upset by a horror that nobody has ever before experienced, would be ready to accept without reservations any requests for moral and material reparations, and would only be concerned to ask that these be presented. On the other hand, the leaders of the state which had borne the consequences of this error would certainly not want to decide to unleash nuclear war, that is, decide to destroy among other things their own people, simply to satisfy their desire for revenge (is it really possible to think in such

terms?), which would moreover be opposed in a thousand ways by their own people, while the whole of mankind would be crying out for peace.

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There is another aspect to the question of nuclear arms, a positive one, the one nobody ever mentions. That there are positive and negative aspects to every phenomenon is a principle of the dialectic concept of history. But it is also a common sense concept that all understand, even through proverbs, although often, struck by the negative aspect of a phenomenon, people forget it and retreat in fear before grasping the positive aspect, thus remaining hostage to obscurity and fear instead of raising themselves up to an understanding of both the good and bad sides, which at the same time represents a degree of trust in the possibility to act. It is understandable that such a thing has happened with nuclear arms. Nevertheless, it is now time to go beyond this and to highlight their positive aspect.

Let us start with a question of current interest, that of the so-called proliferation of nuclear arms. It is beyond doubt that it can not be prevented. Without nuclear weapons, a country has no decision-making power at the international level, except in a subordinate and marginal form. This is why, so far, the Soviet Union, Great Britain and France have emulated the United States. And this is the reason that will push any state which acquires the necessary technical and financial capacity to equip itself with nuclear weapons. This is a prediction which can not be formulated in mathematical terms, but which has practically the same degree of certainty as the prediction that "two plus two equals four". Besides, the proliferation is underway and the fact that those who want to prevent it seek to limit the number of nuclear powers to two (the US and USSR), while there are already four of them, is nothing other than an indication of the obscurity which still surrounds certain people when they are dealing with these problems. How is it conceivable that the number of nuclear powers can be reduced to two, and not increased? International decision-making power is at stake. How is it conceivable that all other states will permanently leave the US and USSR to enjoy this power alone?

On the other hand, the devil is not as ugly as he is portrayed. Nuclear arms proliferation is feared for two reasons: the increase in risk connected with the pure and simple increase in the number of nuclear powers, and the increase in risk linked to the fact that, hypothetically, even some

irresponsible states could end up possessing nuclear weapons. But the first risk does not exist, because, as we have seen, what is true for one responsible state, is true for all responsible states. And if considered carefully, it can be seen that the second does not exist either. In the current situation, irresponsible states do exist, but it remains a fact that these are not yet capable of producing nuclear weapons, and it is a fact that when they will be able to build them and put them at the service of a reasonable policy (due to the nuclear risk an unreasonable policy would not be tolerated by the great powers) they will also have become responsible states. It is perhaps necessary to recall that when placed in the same circumstances all people acquire the same capabilities, or should it be argued that nature has made Russians and Americans more intelligent than other people?

And there is more. This concerns not only the impossibility of nuclear war. Proliferation is in fact equivalent to the extension of the territory where not only does the risk of nuclear war not exist, but where even the risk of a conventional war is lessened, to the extent of completely disappearing. In order not to cross the threshold of the nuclear risk, states with nuclear weapons can not attack each other directly, even with conventional weapons, but can only do so indirectly, with a great deal of caution, on territories far from their own and which therefore do not seriously endanger their reciprocal security.⁵ Nowadays, it is only possible to fight (with or without the intervention of the great powers) on the territory of states without nuclear weapons. This is why the increase in the number of nuclear powers necessarily coincides with the extension of the territory on which the risk of war disappears completely, and with the reduction of territory on which this risk still remains.

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Is, then, a process of the gradual disappearance of war about to start? This idea is incompatible with all political, social and historical data, past and present. That is to say, it is an idea that can not be taken into consideration unless it can be shown that it is compatible with the political, social and historical data of the future which has already begun. Our readers are familiar with our thoughts on this matter. Let us summarise them. Nuclear weapons require large spaces for the organisation of defence and offence. On the other hand, they appear at a stage of the evolution of the economic system in which this system, by making human activity strictly interdependent over spaces of continental dimensions,

gathers people together at this level, and thus creates the basis for a widening of the organisation of the state up to these dimensions.

Hence the following situation can be outlined. On the one hand, continental states that are powerfully armed, but incapable of waging wars because of nuclear weapons, will confront each other in a static equilibrium, deprived of the freedom of manoeuvre, and therefore unsuitable to reproduce at the political, legal and economic levels, the incessant changes of the social basis of human existence. On the other hand, the moral and material interdependence of people, which is constantly increasing due to economic, technological and scientific progress, will bind together increasingly tightly all people on earth, even surpassing continental dimensions. Hence, a constantly worsening contradiction will develop between the social unity of the human race and its division into separate states. And this contradiction will perhaps reach its greatest expression precisely in the military sphere where, in the wake of these processes, it will open the way to its own overcoming, that is to the foundation of a world federal government.

In fact, political division, and hence the need to guarantee security by force, will oblige the states to maintain and perfect more destructive weapons and hold them constantly, as in the past, on a war footing, but of a war (the war without victory and comprising the self-destruction of the belligerents) that will not be possible to wage, that the states themselves will be absolutely unwilling to wage, and which they will succeed in avoiding by thinking up and employing all necessary means. The hotline between the American president and the head of the Soviet Union (that is, the reverse of the very basis of strategy that demands that one's own moves be concealed from the adversary) is none other than the first manifestation of this contradiction: to prepare oneself for war though being certain that it will not be waged; to make it absolutely clear to everyone that one is determined to defend one's own security, even by nuclear means, while at the same time doing everything possible to avert totally the risk of their employment. This absurd effort will undermine the power of the states and will facilitate the affirmation of the *de facto* unifying power that will be formed within the framework of the social unification of the human race.

The examination of the positive aspect of nuclear weapons has brought us to this point, a point that many will undoubtedly try to dismiss as futuristic. Yet Kant, a man in whom reason was displayed to its highest degree, argued in this way: "Through wasting the powers of the commonwealths in armaments to be used against each other, through

devastation brought on by war, and even more by the necessity of holding themselves in constant readiness for war, they stunt the full development of human nature. But because of the evils which thus arise, our race is forced to find, above the (in itself healthy) opposition of states which is a consequence of their freedom, a law of equilibrium and a united power to give it effect. Thus it is forced to institute a cosmopolitan condition to secure the external safety of each state.

Such a condition is not unattended by the danger that the vitality of mankind may fall asleep; but it is at least not without a principle of balance among men's actions and counteractions, without which they might be altogether destroyed."⁶

Moreover, taking into account the fact that at every stage of the evolution of the mode of production, the size of the state community has expanded from city, to region, to nation, those who maintain that this process will continue can invoke the principle according to which the same cause produces the same effects, while those who maintain the opposite position (that this will not be repeated at the continental level, and finally that of the whole earth), are obliged to specify what is the heretofore unknown historical factor that will impede future social units from transforming themselves also into political units.

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The idea of the political unification of the human race, though being a requirement of reason for a clear understanding of the nuclear issue (as well as of the sense of history), is nevertheless not sufficient to establish the political aspects of it. In this context, the following problems take on, even in Europe, a particular significance: a) the problem of the foreign policy to which nuclear strategy should be subordinated, which is beyond the scope of this article since it does not exclusively depend on strategic considerations; b) problems which derive directly from the existence of nuclear arms, which instead can and should be discussed here.

Two of these have great importance. The first is the relationship between nuclear weapons and conventional weapons. In this context, the assertions of the flexible response theory are valid, when qualified. To confront an adversary, it is necessary to have (clearly in sufficient numbers) also conventional weapons at one's disposal. An adversary can mobilise divisions, deploy them along its borders, and take initiatives of very diverse kinds (from a border violation by a patrol to the Berlin blockade, to take examples from history) which can display a clear

military or paramilitary character while not constituting real and genuine acts of open warfare.

It is self-evident that in all these instances, it is not possible to react with anything other than conventional means; responding to an adversary's mobilisation with a counter-mobilisation, to his initiatives with counter-initiatives, other than simply threatening a nuclear response (which would not be credible in the circumstances and thus ineffective). And clearly it is necessary to react in this way, naturally warning an adversary simultaneously that a nuclear response will follow if he crosses the threshold of the risk of a general war (doing so with the aim of averting it), for another reason, that of not lessening one's credibility by empty threats, in a situation in which it would not be possible to carry such threats out.

These observations enable a practical and theoretical clarification. Theoretically, they demonstrate that there is no incompatibility between flexible response and an immediate nuclear response, but on the contrary that they are complementary. Being none other than the proposal to calibrate one's own reaction to the gravity of another's initiative, flexible response does not exclude, but rather implies, an immediate response, in the hypothesis of an initiative that threatens the security of the attacked party in a direct and immediate way. An immediate response therefore depends, in its concrete implementation, on the precise setting of the point beyond which one considers there to be a direct and immediate threat to security, and hence the need to respond with nuclear weapons to an adversary which has already passed through, or skipped, all the preceding stages.

It is evident that in the case of an individual state the margin inside which this point can be fixed tends to be zero because in any given situation there exists a limit, and everyone knows what it is, beyond which the security of the state is directly and immediately threatened. But in the case of alliances, this margin of choice can be much wider, naturally on condition that there exists the will to pay the price of the choice. In fact, the margin is as wide as the number of points in which, for a state or for a group of states in alliance, exists the risk under discussion (which in the case of Europe coincides in practice with that of a general war), and which can be exploited by creating, depending on the point chosen, an independent nuclear arsenal, without which a nuclear response would be neither credible to an adversary nor feasible for an alliance.

That said, practical questions are immediately raised. In the Atlantic area, once agreement on the flexible response strategy has been reached,

an independent European nuclear arsenal can either be foregone or maintained. In the former instance, there would only be a response when the security of the United States was directly or indirectly threatened, that is when Europe would already have been invaded, with the results that we have outlined above, causing enormous damage, as is immediately evident, for the US itself, which, reduced to the position of only being able to use the nuclear threat to stop an adversary, would find itself having to choose between a conventional war for the reconquest of Western Europe, which would be enormously costly and probably impossible, and the acceptance of the new status quo, in which the weight of the US in the world balance of power would be immeasurably less than before. The second case (outlined above) is that of the real and effective defence of Europe. The end of unilateral American leadership would also be useful for snuffing out the nationalism which it generates, directly in America and indirectly in the protected European states.

The other issue is that of the relationship between disarmament and nuclear policies. This is solely a question of principle, since in the world's present state disarmament is held to be impossible (at least within the limits of our present capacities of prediction). Yet it is necessary all the same to link nuclear policy to disarmament policy, both in order in the short term to match the feelings of power generated by these weapons with the aspiration of peace, and to keep open all the paths that lead to the overcoming of the contradictions caused by the nuclear phase of the evolution of war strategy. One risk seems to stand out, that of the destruction of nuclear weapons and hence of the re-emergence of general war in Europe. Yet this risk, which nevertheless should be run for an offsetting gain of this nature, is more apparent than real. With a policy of disarmament, it will never, as far as we know, be possible to achieve disarmament itself, but instead life will be made harder for those who, by means of militarism, attempt to preserve political privileges which are no longer justifiable, enabling, for example, the conversion of the Soviet Union to democracy, perhaps its adhesion to the European Federation which is in the process of being established, and so on. In any case, a new path will be followed, along which mankind will not find again the events and facts of the past, but rather will complete the stages which will bring it to world government and perpetual peace.

However, it should be added that there are two disarmament policies. One was adopted by the US, USSR and United Kingdom in the Treaty of Moscow regarding the partial suspension of nuclear experiments, which fits in with the preservation of the nuclear monopoly by a few states, in

other words the maintenance of US and Soviet domination over all the other states, with the United Kingdom having an illusory role as a third great power. The other is promoted by de Gaulle, who contemplates the destruction of missiles as a first step, in other words the neutralisation of the nuclear power of the privileged states. There is no doubt that Europe should follow this latter policy of disarmament, which promotes, at least ideally, equality between peoples through the reduction of power imbalances.

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An examination of the broad lines of the issue of Europe's defence, and of the significance of nuclear weapons, would be concluded at this point, did it not remain to analyse a fact which, while not depending on nuclear strategy, nevertheless conditions it. Why do we talk of the defence of Europe and not of the defence of France, Germany and so on? In theory, the defence of one's own state is natural, while that of an area made up of many states is not. This is even more valid in the case of nuclear weapons, which are of use only with regard to a direct and immediate threat to the security of a community. This clearly does not mean that a state must fight alone. On the contrary, it must ally itself with the largest possible number of states, but this does not change the goal, which always remains that of the defence of the lives and property of the members of a state community, as well as its territory.

Notwithstanding this, and notwithstanding the fact that NATO, which defended Europe as a single entity during the years of the absolute impotence of the European states, is collapsing, the European governments always, and only, concern themselves with the defence of Europe, and not with the defence of France, Germany, and so on. Why? Because they know, albeit almost without realising it, and without however being aware of the nature of the fact and of its implications, that Western Europe represents, from a defence viewpoint (as, moreover, from an economic one), an indissoluble unity. All the same, we are still very far from an effective defence of Europe, as far as a naive unconscious understanding is separated from a real and conscious knowledge.

That the French nuclear arsenal defends Europe is not in doubt. It does so precisely because France alone is not defensible, because the defence of Europe is indivisible, and in the ultimate instance because France is already directly and immediately threatened from the moment in which Germany is attacked (I note, for those who turn a deaf ear to this issue that

this is what differentiates the French nuclear arsenal from the American one as far as Europe is concerned). But it is nevertheless true that France, alone, can not guarantee an efficient defence of Europe, neither in a material nor political sense.⁷

In a material sense, France, using only its own means, can achieve the building of a small nuclear arsenal, but one which is completely insufficient for resolving the problem that is posed in reality - that of standing up to, both at the nuclear and conventional levels, Russian power. It is clearly necessary to oppose the Soviets' continental concentration of resources with another continental concentration of resources, that is European power.⁸ And on a political level, France is not capable of mobilising all European resources, nor to elaborate, even in the name of the other states, the policy of Europe's defence, and not even to establish formally in which instances (which relate primarily to German territory) a nuclear response would be employed, a fact that is sufficient to diminish credibility even if it is easy to imagine what these would be in practice.

Moreover, once it has been established that achieving an effective defence concerns defending Europe, not individual states, it should be recalled that the French nuclear arsenal, being French, is French and not European, aside from its insufficiency. This observation is so simple as to seem stupid. But it needs to be made because many, bewitched by its European function, do not notice this. The French nuclear arsenal is French, and is at the service of the European policy of a French government and not, as is required, of the European policy of a European government. In this respect, it unleashes small-minded French nationalism; which unleashes, in its turn, other European nationalisms that are even smaller due to their greater weakness, but equally damaging. In fact, they undermine, while the point is to reinforce, the commitment of everyone to common defence and European integration, even if it can not be completely destroyed since its foundation lies in facts and not in the will of men.

Furthermore it is necessary to highlight the fact that the defence of Europe can not be effectively safeguarded except by a European government. Even this observation is so trivial as to come close to stupidity. But even this point should be made because not only the governed and national politicians, but even federalists, half-hearted federalists, dream of achieving a European foreign policy and the real and effective defence of Europe without a European government, thus ignoring it.⁹ Nevertheless, they will soon discover it. The evolution of the political situation, combined with the action of the federalists, will in

practice make it clear to everybody that the foundation of a federal European government is not only possible, but also probable. And probable within a short space of time, that which separates us from two fundamental deadlines for Europe: the end of the Atlantic Pact, and the end of the transition period in the Common Market.

NOTES

¹ In the preface to David Irving's book on the destruction of Dresden by an Anglo-American air raid, Air Marshal Sir Robert Saundby wrote: "The advocates of nuclear disarmament seem to believe that if they could achieve their ends, war would become decent and tolerable. They would be advised to read this book and to consider the fate of Dresden where 135,000 people were killed by an air raid in which conventional weapons were used. During the night between 9th and 10th March 1945, the air raid on Tokyo by American heavy bombers using incendiary and explosive bombs, caused 83,793 deaths. The atom bomb dropped on Hiroshima killed 71,379 people". (See David Irving, *The Destruction of Dresden*, William Kimber and Co. Ltd., 1963, p. 8.) Sir Robert Saundby, who was Deputy Air Commander-in-Chief, when general Sir Arthur Harris was Air Commander-in-Chief, continues: "Nuclear weapons are clearly much more powerful than in our time, but it would be a serious mistake to believe that after their eventual suppression, planes using conventional weapons will be unable to reduce large cities to ashes and carry out terrifying massacres. Suppressing the threat of nuclear reprisal — which makes war to be the same as mutual annihilation — would permit a possible aggressor to be seduced by a recourse to conventional war". Sir Robert Saundby argues that "nuclear power has finally allowed us to foresee the end of generalised war".

² Nobody is capable of drawing up a plan of this kind because war is not a phenomenon that depends on the free judgement of men but rather on the nature of the actual political organisation of humanity (in this framework nuclear weapons represent the embryo of a new situation). It is true that in spite of the experience of the whole course of history, many people, and even federalists (but those lacking a conscious theory of federalism) still believe that the recourse to force, and the choice of what type of force to use, depends exclusively on the bad will of rulers, whatever the reason for this may be (capitalism, communism, nationalism, or anything else). It is still maintained that war is in their hands as thunderbolts were in the hands of Jupiter; it can still be heard from scientists or experts that the desire for power is an illness that infects peoples, as if it were possible for states to guarantee their security without military power, as if their relations were not power relations, as if states were not powder kegs in a room full of sparks. It is nevertheless a fact that rulers talk about peace and the rule of law when the status quo favours their state, and about force and war when it does not. It is equally true that, since this situation changes, and since there are always states for whom a change in the status quo is worth their while, war has always raged and will always do so until such time (and that time is now foreseeable) as war becomes materially impossible.

³ Those who doubt this, need do no more than recall that in instances of this kind, disobeying an order occurs even in the most developed states, and even in the military

sector, in other words where the behaviour of command and obey is displayed with maximum discipline. It is sufficient to recall General Challe, for example, let alone Salan and the other generals of the O.A.S. In any case it is more interesting to observe that Bruno Leoni defined the state and its political power on the basis of such negative power ("the power to win respect protects and guarantees the integrity and use of goods that all individuals consider fundamental and indispensable for their own existence: life, the possession of some means of safeguarding it, the possibility of creating a family and safeguarding the lives of its members, and so on"), or rather on the basis of an exchange of such powers. (For the passage cited, see Bruno Leoni, *Diritto e Politica*, in "Rivista internazionale di filosofia del diritto", a. XXXVIII, f. 1, p. 106.) Hence, it can be argued, in line with Bruno Leoni's theory, that in the cases under discussion here, the state ceases to exist and pure and simple power relations take over.

⁴ It would seem that the fact that the right to decide on the deployment of nuclear weapons is reserved to the head of the executive should be interpreted as a desire to be rid of the wills of individual people, and, moreover, that the right has been entrusted to the person that more than anybody else is dependent on everyone. It remains a fact that, if law is considered in a purely formal way, and if the possibility of deploying nuclear weapons is consequently attributed solely to the free judgement of the head of the executive, the law is attributed a character different from the one that people in effect confer on it by their actual behaviour. Let us imagine the scenario of a grave international situation, as a consequence of which the head of the executive in a certain state which has nuclear weapons summons his closest aides; let us also imagine that this leader displays his intention to use the nuclear weapons at his disposal; and let us ask ourselves how he would seem to his aides. Certainly his legal powers would not in any sense represent a magic shield, such as to prevent his aides from seeing him for what he is, a person like any other who does not have the "right" to exterminate humanity.

⁵ This explains the shift in the European policy of the US from the concept of immediate nuclear response to that of flexible response. What we have said so far demonstrates that the resort to nuclear weapons will occur only in cases where one's own security is directly and immediately threatened. In no other cases will this happen, because it would in theory provoke the adversary to respond, in other words it would bring down one's own destruction. It is true that a limited war is not conceivable in Europe, that a conventional attack would degenerate into a general war, that Europe would not be able to defend itself with conventional weapons, and hence also that, with the whole of Europe occupied, the US itself would be directly and immediately threatened. In other words the US would find itself in a response situation without having threatened early enough. But this does not uncover an American alternative to the American version of the flexible response theory as it relates to Europe. Such an alternative does not exist because it is madness to protect with one's own nuclear response something that is situated an inch away from one's own direct and immediate security (and Western Europe in front of a Russian advance is precisely an inch away from this American security). Hence, rather, a fundamental contradiction in the current Atlantic system is exposed, a contradiction which can be removed in the ultimate, as we will see, only by a European government and by a European nuclear umbrella for the territory of Europe.

⁶ Kant, *Idea for a Universal History with a Cosmopolitan Intent*, Thesis VII. Publishing this essay in 1784, Kant added the following note to the title: "Among the short notices in the twelfth issue of this year's *Gothaische Gelehrte Zeitung* is a passage that is without doubt based on my conversation with a scholar who was passing through; it requires the following clarification, without which it would not conceivably make sense." This shows that Kant wanted to prevent any misunderstanding of his ideas concerning the issue, in other

words he considered them to be very important. In the essay, he continues: "Until this last step to a union of states is taken, which is the halfway mark in the development of mankind, human nature must suffer the cruelest hardships under the guise of external well-being; and Rousseau was not far wrong in preferring the state of savages, so long, that is, as the last stage to which the human race must climb is not attained."

⁷ It has been argued that while France is not strong enough to defend Europe, its *force de frappe* would make the US not only join in Europe's defence, but do so with a timing of Europe's choosing, and that this would suffice. But this is not true. The weakness of the French forces means that Germany has to rely both on France, for the timeliness of her intervention, and on the US, for her power to defend. Furthermore, this German dualism undermines Franco-German relations, which are at the heart of European integration and Atlantic cooperation, and hence obstructs, rather than promotes, a shared effort for a common defence.

⁸ As is well known, there is talk of a suitable and calibrated nuclear response. A medium- or small-sized state is defended from a large one not only when it is able to destroy the large state completely, but also when it is able to wreak damage equal to the advantage that the large state would gain from occupying or destroying the smaller one. In theory, this may be true in certain instances. But it is certainly not possible to defend France in this way. France is at risk when Western Europe is at risk. Moreover, it is sufficient to consider how much France's strength would be reduced if, only on an economic level, the ties which bind her to the rest of Western Europe were to be cut.

⁹ Paul-Henri Spaak, currently the most authoritative "European" in power, has recently asserted that: "Previously, we regarded the creation of the United States of Europe rather like that of the United States of America: with a federal constitution presented to the governments establishing a harmonious entity [the federal constitution of the United States was presented to the peoples of the thirteen states, not their governments — Ed.]. This is a mistake, as experience has shown. Nevertheless, we have had a different experience, this time positive, with the Common Market. Nobody can effectively challenge the fact that these successes essentially derive from the dialogue established between the Community's Commission and the national governments. Why not adopt this method, which has proved its worth in the political sphere, particularly on the issues of foreign affairs, defence and cultural politics?" (*Le 20e Siècle fédéraliste*, 11th September, 1964, n. 346.)

There are undoubtedly many people who find Spaak's proposal entirely reasonable, without realising that it represents exactly the opposite of our observation here (which is in reality trivial), that there is no effective defence of a territory without a government, a concept which such people would moreover find equally reasonable. On reflection, the reason for this contradiction can be found. Without considering here the fact that Spaak attributes the success of the Common Market to a "dialogue" between the Commission and the national governments, in other words to something less than a superstructure, it is possible to state that he is wrong, because he confuses what has helped to carry out the governments' march towards Europe with what is needed to conclude it. As regards European unification, it is indisputable that in one respect we are close to its conclusion because there no longer remains anything to unify except foreign and defence policy (these are now the obstacles of the integration process), and in another that it has become necessary to construct a real and proper power (leaving aside culture, which a good federalist should attribute to national and regional governments, and to free associations, but never to a European government) because defence and foreign policy can not be unified without unifying political will, that is without creating a state.

It is worth noting on this subject that Spaak, after some delay and a long political battle, reworked de Gaulle's proposals. In the framework of the march of approach of the

governments, these proposals are in effect the best possible choice.

Nevertheless it should be observed:

a) that the European governments can not take a single step towards integration without confronting the problems of foreign and defence policy,

b) that we are so close to the conclusion that such problems as Western Europe's foreign and defence policy are tending to pass from an Atlantic framework to that of the integration of the Six,

c) that once passed into this framework, yet with a confederal-type institutional structure such as that of the so-called Economic Communities, it will be impossible to resolve these problems (for the reason elaborated above), but they will nevertheless be highly conspicuous as problems of Europe and not of the individual nations,

d) finally that the positive aspect consists of the fact that the so-called Community of foreign and defence policy (or some other name it may be given in the future so as not to vex de Gaulle), by highlighting this feature of these problems while not being able to resolve them, will enable the federalists, and little by little a growing number of democrats, to struggle for their solution, thereby demonstrating the current confederal monster to be the cause of their lack of solution, and the means of their resolution to be the creation of a European federal government, that is to say the convocation of a constituent assembly.

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