

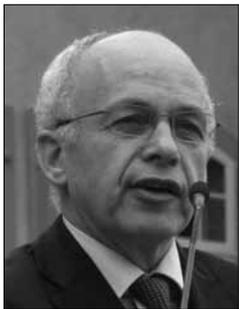
Current Concerns

The international journal for independent thought, ethical standards, moral responsibility,
and for the promotion and respect of public international law, human rights and humanitarian law

English Edition of *Zeit-Fragen*

“I have the impression that we Swiss often respond too defensively to allegations and blackmails”

by Federal Councillor Ueli Maurer, head of the Federal Department for Defence, Civil Protection and Sports,
on the occasion of the Ustertag celebration on 18 November 2012



Ueli Maurer (picture thk)

“Heinrich, if it goes wrong, it could cost you your head.”¹ This is what father Gujer said to his son Heinrich. We are at the mill in Bauma. It is a mild autumn morning; it is the 22nd November 1830.

Heinrich Gujer says goodbye and sets out on the road. He takes his passport, so that he might flee if necessary. Later in the day, he will speak on the Zimiker Hill to thousands of citizens and with his speech opening the People’s Assembly of Uster, the “Ustertag”.

Freedom requires courage

It is fortunate that the concern of the father is historically known. We can look behind the backdrop of the story. We learn about the mood of the people of that time, fear and its overcoming, about the courage they needed. From this we learn something very important: freedom is not for granted. Courage is a prerequisite of freedom. Because courage was required to come to Uster; it took courage to take one’s destiny into one’s own hands.

By the Ustertag (People’s Assembly at Uster) we celebrate our freedom. We remember the courage of all those citizens who stood up for freedom on that memorable 22nd November 1830. And we remember that freedom is only there as long as we citizens stand up for our freedom.

The courage to freedom has been shown at that time in the citizens’ march to Uster. But it was not limited to that alone: the significance of the day becomes clear when we look at the wider context. The Ustertag marks the breakthrough of liberal principles. What was previously discussed in pamphlets, popular entries, memoirs, is being politically implemented as a result of the Ustertag. First in the new Zurich Cantonal Constitution of 1831. Then by reforms in other cantons. And finally in the Federal Constitution of 1848.

These constitutions founded the ground for the liberal social order; for the social

order that has made Switzerland one of the freest, most peaceful and prosperous countries – for the society to which we owe our unique quality of life.

Principles of freedom

The principles are simple, clear and timeless: we are free citizens. One of the three speakers on the Day of Uster, *Johannes Jacob Hegetschweiler*, physician in Stäfa, quoted *Friedrich Schiller*: “Man is created free, and is free, though he be born in chains.”² Everything else follows from that: freedom of speech, freedom of assembly, freedom of science and arts, economic freedom, equality before the law, protection of private property, privacy, protection against arbitrary interference, to name only a few. It includes also the transparency in governance. Because the government is accountable to the citizens and not the citizens to the state. The Ustertag and liberal constitutions define the new conditions: Previously, the government had a country. Since then the country has a government.

This brings us to the most important principle: we all together, we, the people, we are the sovereign, i.e. the supreme power in the state. The people enact the Constitution and may change it at any time again. This is the introductory principle with which the manifest of the Ustertag opens. And so, it is written in the first article of the Zurich Cantonal Constitution of 1831.

All these principles are essential to secure freedom. The Ustertag is not a far away historical event: it has paved the way to a lasting effect. The ruling for freedom on that day is the foundation of today’s success. Therefore, the celebration of the Ustertag is one of the most important commemorative events in our country.

But it is not enough if we solemnly commemorate freedom once a year – and go on to forget these important principles again in everyday political life.

For example our talking about tax gifts: This is a relapse to conditions of well before the Ustertag. This is the feudal state again: Everything belongs to the ruler. The land and the labor of his subjects; what is passed down to the subjects is a gracious gift of the Lord.

At least since November 1830, we see it the other way: we are free. What we worked for belongs to us. Therefore there is no such thing as a tax gift. Because the state cannot give to us what belongs to us, anyway.

Another thing: Tax money does not get lost where it is not levied. Tax money is lost, where it is nonsensically squandered by the state.

Do never forget the most important principle: The people are the sovereign. Only citizens can change the constitution – but the citizens, they can really change it. A referendum is therefore binding. Even if it is about the deportation of foreign criminals, which displeases the government, the media and the political elite. A poll result is not a submissive petition to the gracious lords as it was in the *ancien régime*. It is a decision by the supreme body of the country, a decision by the citizens in their role as the highest authority. So, a firm order, which must be put into action. That we should have known as well, since November 1830 at the latest!

Special case freedom

Ustertag is the overture to the reform era, from which our modern state emerged. And in this context it is appreciated ever and again – justly so!

But the Ustertag has also another meaning, which cannot be overestimated: the reforms of the 1830 and 1840 years also have a foreign policy dimension.

Switzerland dares democracy. Switzerland dares freedom. On her own; as a special case. Everywhere else in Europe, monarchs are reigning. In France there has been a revolution in July 1830. However, one king is just replaced by a new king.

Switzerland steers a course, which no other country dares to go. Just fancy, what that means at the time: people’s rights instead of divine rights. In all other countries the situation is reversed: only very few determine the course. The vast majority must obey. Governing and administration is seen as a highly complex art. The people cannot understand it at all, it

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is in the way and must not protest. Princes and their ministers meet in secret; without publicity, without control, without democratic participation of the subjects.

The Zurich Cantonal Constitution of 1831 and the Federal Constitution of 1848 are incredibly courageous steps. They are the counter-concept to everything that is common in other European countries. Our country differs deliberately from the international norm, as far as is conceivable. The citizens of the time know what the liberal constitutions will bring them: freedom – but also criticism, ridicule, contempt, pressure and blackmail from outside.

As early as in the 1820s Switzerland had made these experiences once before. Even before the Ustertag freedom in this country has been greater than elsewhere. This bothers the European powers. Therefore, they want to integrate and to control Switzerland. Hardly was our country able to escape from the influence of Napoleon, the Ambassador of the Austrian Emperor and the Russian Tsar put their demands on the table to the mayor of Zurich.³

Switzerland and the "Holy Alliance"

Switzerland has been a member of the *Holy Alliance* since 1817, today we would say: a supranational organization. Almost all countries in Europe belong to it.

The founding agreement of September 1815 consists of fine words. It says that relations with all countries are marked by "the principles of justice, love and peace alone". They want to "give remedy to the human institutions and their imperfections".⁴ Noble explanations – if there had already been the Nobel Peace Prize, the *Holy Alliance* would have been awarded it ...

Behind the backdrop of beautiful words, reality is somewhat different: the big states set the tone. The objective of the *Holy Alliance* is to ensure the rule of the monarch over the citizens. Politics is dominated by Prince *Metternich*, the foreign minister of the Empire of Austria-Hungary. He is the legendary grand master of power politics.

Anyone who does not obey sees the whip. Repeatedly the rulers threaten with the cavalry. And they send it out, as well – against liberal citizen' movements in Spain or Italy.

Switzerland gets targeted as well. Pressed by the *Holy Alliance*, the "Tagsatzung" (= Diet = legislative and executive council) decides the "Pressekonklusum" (= censorship after going to press) in 1823, which then is being extended repeatedly over several years. This is a prescription for the cantons how to supervise the press. Because the powers are demanding less freedom of opinion but more censorship.⁵

Customs measures are used as means of pressure: The neighbors show their eco-

nomie power. There are difficulties concerning customs with France as well as with Prussia.

The monarchs launch rumors and threatening campaigns: In the Canton of Vaud, for example agents go to winegrowers under the pretext of wanting to taste their wine. In the conversation with the people they make them fear, that the French were assembling troops and would soon invade the country.⁶

By the way: Actually a loss of *savoir-vivre*, today a press department just posts a communiqué on the internet ...

The high European governments have the power on their side. But at the same time they fear that the liberal order of Switzerland could inspire the citizens of their own countries. Freedom is always a provocation in the eyes of those, who pin their faith on the State. Therefore, the attacks are always targeting the reputation of Switzerland.

Metternich said: "Switzerland today stands alone as a republic, and it serves as a Freeport for all kinds of troublemakers."⁷ This denigration is part of a political strategy. Today Metternich would speak of tax haven instead of Freeport ...

The large states clothe the brutal power politics in a pseudo-ethical garb: The liberal Switzerland is presented as morally reprehensible. Metternich wrote in an instruction letter for an imperial envoy of "a moral rot that is spreading more and more in the popular mind, and which is also undermining the Swiss life of the state".⁸

Despite this immense pressure Switzerland then bravely selects her own way, because freedom is more important than international praise.

Freedom under pressure

When I look back at that time, I think: Many things are so different. But much is also very similar.

When I look at the courageous citizens of that time, I ask myself: what about our freedom of today? And what about our courage to stand up for freedom?

We as well are under pressure from outside. We are criticized because our citizens have more rights and pay less taxes than they do in other states. We come under pressure because our order is liberal and democratic, because our privacy and property are respected. And we are envied, because we are better off than they are.

We are always in the stocks not because we do things wrong, but because we are doing them a lot better.

I have the impression that we Swiss often respond too defensively to allegations and blackmail. We may remind others how they benefit from us: for example, that the Swiss economy according to the National Bank has invested about 900 billion Swiss francs abroad, thereof over 40% in the EU,⁹ that Swiss compa-

nies have thus created more than 2.6 million jobs world-wide.¹⁰ In addition there are more than a quarter of a million frontier workers earning their money in Switzerland. The federal government alone has budgeted 3.3 billion Swiss francs for international relations for the next year.¹¹

We do not ask for thanks – but we demand respect and fairness.

Sometimes we stand in our own way, too. We quickly succumb to the desire to also be part of the company somewhere. Thus we often lack the courage to head for an independent solution.

If I would have to describe the situation with a great poet as Hegetschweiler, I would refer to *Goethe* for our condition between seduction and coercion. In one of his ballads a mermaid lures a fisherman to destruction:

*"She spoke to him, she sang to him;
resistless was her strain;
half drew him in, half lured him in;
he ne'er was seen again."*

In recent years, we have entered far-reaching international obligations in different areas and with different partners; with states as well as with supranational organizations. More or less consciously we have abandoned freedom of action in key areas. Meanwhile, we find that new commitments for us are growing out of many of these commitments. Often with negative consequences for our freedom.

Isn't it about the time, we emotionless examine what the benefits are we derive from the main international treaties on one hand, but what the costs are for us on the other hand? Is there still an overall balance? Is there a balance for Switzerland between giving and taking? Have we received what we have hoped for or what has been promised to us?

Balance of bilateral agreements

Let us examine more precisely the most important bilateral agreements with the EU. Since they stand exemplarily for the international positioning of our country in general.

Transport by land

One expected a great deal from the *land transport agreement*. In the Federal Council message – name of the report by the Federal Council in which he explains a bill – the land transport agreement was described as the "crucial element for achieving [...] transfer from road to rail"¹². The objective of "about 650,000 transalpine road journeys" will be achieved "probably [...] in the period from 2006 to 2012"¹³. Today this is a different story: The objective of 650,000 road journeys is far away. About twice as many trucks than had been announced cross the Alps today.

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With respect to the northern and southern access routes to the Neat in Germany and Italy, the bilateral land transport agreement had been supposed to secure the construction of these lines.¹⁴

Till this day, hardly any of these access routes has been realised.

Dublin

Not only with respect to the land transport agreement must we realize that contracting partners do not properly keep their side of the agreements. Let us take the *Dublin agreement* as an other example:

According to this agreement, that country is responsible for an asylum procedure in which an asylum-seeker has put his first request. For everybody who does not arrive by airplane here we logically can be not responsible at all, since we are surrounded by Dublin agreement states. For the large part of the asylum-seekers Italy is responsible according to the agreement. I say according to agreement – the reality looks different: Italy has limited the re-admission.¹⁵

Schengen

Let us take Schengen: In the Federal Council message to the *bilateral agreements II* they said, the agreement serves to the "strengthening of internal security".¹⁶

Today we read about criminals who are no longer stopped by border controls, from foreign gangs which can be hardly caught by the police, because they clear out abroad immediately. Only this year 20% to 30% more burglaries were reported to the insurances. Since the beginning of the year the public prosecutor's office of Basel-Stadt lists a 45% increase of burglaries.¹⁷ And we hear a councillor's of state appeal for help from Vaud, asking to please check the borders more strictly, again.¹⁸

We also take note that other Schengen states act exactly accordingly: France and Denmark have introduced their controls again from time to time.

And we must take note that on the Turkish-Greek border Greek authorities have no longer controlled the situation since long. The illegal immigration across the Greek border and the Balkan route has increased, including side effects like trafficking in humans and drugs.

Regarding the security Schengen has stayed clearly behind our expectations. However, there are two areas in which Schengen has excelled our expectations massively: The personnel expenditure is much bigger than assumed. And the expenses are much higher than expected. Initially there was talk about 30 to 40 posts for which, one could compensate internally, they said. Today the amount of

work might exceed 200 posts. Expenses of about 7 million Swiss francs per year were at first figured. In 2013 we will have arrived at 100 million Swiss francs.

I have heard from citizens who said, that "Federal Berne" was like Gotham: More people are working for more security. What they achieve with security is that insecurity increases.

Bank client confidentiality

Besides other things, the bilateral agreements II were also intended as a concession to the EU to protect the bank client confidentiality in return. One warned against considerable economic risks – I quote again from the Federal Council message: "In case of a failure of the agreements relevant to the financial centre, we would have to expect an immediately rising pressure on our bank client confidentiality by the EU."¹⁹

In spite of this we have this pressure today. Hopes and expectations at that time have neither come true with respect to this point.

I said at the beginning of my address that we should not forget the principles of the "Ustertag" in political everyday life after the ceremonial act.

The same applies to the bank client confidentiality: The bank client confidentiality protects privacy, exactly like the medical secrecy or postal secrecy. The protection of privacy is an old liberal achievement the core of which dates back to the 1830s.

Immigration

However, the greatest difficulties arise with the *free movement of persons*. We feel its results much stronger, than initially conceived. In the Federal Council message it was still said: "It can generally be assumed that even in case of a complete realisation of the principle of Free Movement with the EU no massive immigration is to be expected [...]"²⁰

Today we must note that exactly this is taking place: A massive immigration!

During the last five years we had an immigration balance from about 80,000 foreigners per year on average. This is more than the inhabitants of the city of Lucerne; or nearly three times the city of Uster – and this, as I said, each year. Switzerland is a small country and even now densely populated. This massive immigration takes us to the capacity limits in all respects. Did we really consider what are the consequences would be for our infrastructure, for private and public transport, for schools, hospitals, energy supply; for real estate prices and the housing market; for environment protection and the wage level?

It is obvious: We should react. Actually, it would have to be clear to everybody that a growth in population of this magnitude

cannot be mastered in the longer term and might lead to dangerous tensions.

But our hands are tied by the contract with the EU. Therefore our reaction is merely to combat symptoms. And this does not correspond to the liberal principles which have made our economy strong: We extend the *supporting measures*. Now these measures are even to be extended to the housing market according to a parliamentary motion. However, supporting measures are nothing but restrictions of the liberal principles to which we owe our success.

To sum up, we must declare: We have extensively given up our freedom of action and self-determination in foreign policy. With Schengen we must comply with the visa policy of the EU, with the free movement of persons we can no longer regulate the immigration to our country.

Power and law

I am worried about this development. And I ask myself: When we carry out an overall assessment of the agreements, are we still sure that the result is right for us?

International relations are determined by two factors: By power and by law. Great powers rely on power always and again. This is nothing new as we have

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Publisher: Zeit-Fragen Cooperative

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Subscription details:

published regularly electronically as PDF file

Annual subscription rate of
SFr. 40,-, Euro 30,-, £ 25,-, \$ 40,-
for the following countries:

Australia, Austria, Belgium, Brunei, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Hongkong, Iceland, Ireland, Israel, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, Netherlands, New Zealand, Norway, Qatar, Singapore, Spain, Sweden, Switzerland, United Arab Emirates, United Kingdom, USA

Annual subscription rate of
SFr. 20,-, Euro 15,-, £ 12,50, \$ 20,-
for all other countries.

Account: Postscheck-Konto: PC 87-644472-4

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learned from history – and also from last years' experiences. In case the debt crisis gets worse, power politics will also become harder.

As a small state law is ever more important to us. In contrast to the great powers we cannot simply ignore the arrangements or bend them into shape afterwards to make them suit our interests.

Because law is so important for us, we must give special attention to international responsibilities. And we must think twice towards whom we take on responsibilities ourselves; and also, how long we want to remain in a contractual relationship.

In doing so we have to bear in mind how such agreements develop. Often they generate a particular dynamism. With ever varying adaptations and enlargements a slipstream develops towards more and more enforced conformity.

Recently, the EU even demanded that we automatically take over their law, as well as all future law which we do not know yet, at all. That means we would submit to EU jurisdiction. Is this really what we want?

The relations with the EU exemplarily show what we notice in relation to other international organisations or states, also to the USA: Certain international agreements always imply ever new liabilities.

And they affect our freedom as well as our domestic order ever stronger.

Venture freedom

We have already heard about Johannes Jacob-Hegetschweiler, the speaker of the "Ustertag" who cited Schiller at that time. If we could ask him today, probably he would cite Schiller again. For example, from the *Song of the Bell*: "Therefore test, who wants to bind himself forever, Whether heart will find right heart. [...] The elation is short, the remorse is long."

Perhaps it is time to basically balance advantages and disadvantages of international agreements and to establish a down-to-earth assessment. And if it is not right for us, we should draw the consequences. I admit: Courage is needed – to venture freedom, this always requires courage. It has always been the same just like 182 years ago.

On the 22nd of November 1830 the citizens ventured the breakthrough to freedom in Uster. That was courageous. But it was worthwhile. This is why we still celebrate the "Ustertag" today ...

Source: www.vbs.admin.ch

(Translation *Current Concerns*)

- ¹ Cit. after Karl Dändliker, *Der Ustertag und die politische Bewegung der Dreissiger Jahre im Canton Zürich*, Zurich 1881, p. 58
- ² Karl Dändliker, *Der Ustertag und die politische Bewegung der Dreissiger Jahre im Canton Zürich*, Zurich 1881, p. 59
- ³ Wilhelm Oechsl, *Lebzelter und Capo d'Istria in Zürich*, in: *Festgaben zu Ehren Max Büdingers*, Innsbruck 1898

- ⁴ Historisches Seminar der Universität Bern (Ed.), *Quellen zur neueren Geschichte, Europapolitik zu Beginn des 19. Jahrhunderts*, Berne 1944, I. Die Heilige Allianz (original in french), p. 5
- ⁵ see Robert Baum, *Die Schweiz unter dem Pressekonkklusum*, Diss. Zurich 1947
- ⁶ Robert Baum, *Die Schweiz unter dem Pressekonkklusum*, Diss. Zurich 1947, pp. 30, esp. p. 32
- ⁷ Werner Sutermeister, *Metternich und die Schweiz 1840–1848*, Berne 1895, p. 3 Fn 1
- ⁸ Arnold Winkler, *Metternich und die Schweiz*, in: *Zeitschrift für Schweizerische Geschichte*, 1927, p. 60
http://www.snb.ch/ext/stats/fdi/pdf/de/1_2_CH_Direktive_Kapitalbestand.pdf
- ⁹ http://www.snb.ch/ext/stats/fdi/pdf/de/1_3_CH_Direktive_Personalbestand.pdf
- ¹⁰ Bericht zum Voranschlag 2013, p. 28 and p. 70
- ¹¹ Botschaft zur Genehmigung der sektoriellen Abkommen zwischen der Schweiz und der EG, 23 June 1999, BBI 1999, 6282
- ¹² Botschaft zur Genehmigung der sektoriellen Abkommen zwischen der Schweiz und der EG, 23 June 1999, BBI 1999, 6291
- ¹³ Botschaft zur Genehmigung der sektoriellen Abkommen zwischen der Schweiz und der EG, 23 June 1999, BBI 1999, 6292
- ¹⁴ 11.5086 – Fragestunde, Dublin ausser Kraft, Antwort des Bundesrates, 7.3.2011
- ¹⁵ Botschaft zur Genehmigung der bilateralen Abkommen zwischen der Schweiz und der Europäischen Union, einschliesslich der Erlasse zur Umsetzung der Abkommen ("Bilaterale II"), 1 October 2004, BBI 2004, 5991
- ¹⁶ Der Sonntag online, "Ein Viertel mehr Einbrüche", visited on 29.10.12
- ¹⁷ "Wir müssen die Grenzen strenger kontrollieren", Interview mit Staatsrätin De Quattro, NZZ am Sonntag, 10.2.12, p. 10
- ¹⁸ Botschaft zur Genehmigung der bilateralen Abkommen zwischen der Schweiz und der Europäischen Union, einschliesslich der Erlasse zur Umsetzung der Abkommen ("Bilaterale II"), 1 October 2004, BBI 2004, 6012
- ¹⁹ Botschaft zur Genehmigung der sektoriellen Abkommen zwischen der Schweiz und der EG, 23 June 1999, BBI 1999, 6350

Backbone and steadfastness are being expected from our population ...

ts. "But it is not enough if we solemnly commemorate freedom once a year – and go on to forget these important principles in everyday political life." Based on this statement the Federal Councilor Ueli Maurer outlines what is needed today in Switzerland, looking back at history and commemorating the "Ustertag": to have the courage to strive for freedom and never bend to the arrogance of power. It is important to defy the autocratic representatives of supranational organizations who always in history threatened the smaller ones with their cavalry "and to boldly go one's own way, because freedom is more important to us than international praise". In short: To demand respect and fairness from everybody in dealing with our country.

The vast majority of the Swiss population share this assessment of the situation and also have the public spirit and the necessary courage, both the population of the countryside as well as that of cities – a fact which was an effect of the Ustertag assembly which has closed the gaps between autocratic townfolk and their subordinate country population. The alliance keeps together even if the 5th column of the EU vassals wants to di-

vide the population of Switzerland again with their ideological fantasies of "metropolitan regions" and "nature parks" – with their easy-to-see-through wicked motives!

A member of the supreme executive power is giving a speech in which he emphasizes out that in Switzerland the people is the highest instance, the true sovereign, and that we – just because of our liberal order – might inspire the citizens of other countries and that this is also the reason why we are being attacked by the representatives of power – in what other country but Switzerland could such a thing happen? Where, if not in Switzerland does an Executive politician speak a sentence like this: "A poll result is not a submissive petition to the gracious lords as it was in the 'ancien régime'. It is a decision by the supreme body of the country, a decision by the citizens in their role as the highest authority. So, a firm order, which must be put into action. That we should have known as well, since November 1830 at the latest!"

It would be desirable that the citizens of the singular countries of the Moloch EU also enjoyed these rights.

But on the other hand: How widely is this deeply direct democratic ethos still present among our elected representatives? Where do the other members of the Federal Council stand in the political proceedings? Do they practise the upright gait? Or are they going on a "pilgrimage" – to quote the Federal Councilor *Obrecht*? At that time it was the pilgrimage to the capital of the Third Reich, and today? And what about our members of the National Council and the Council of States? Do they own the backbone and the firmness which they are expected to have by the population? He who doesn't align himself with the mood in the population, with the attitude, the dignity and vein of a Federal Councilor Maurer and that of a National Councilor *Ruedi Noser* in the present situation, should think about whether he is in the right place – today and also in terms of his place in history; whether by later generations he will be honored for his courage as Heinrich Gujer of the mill in Bauma was or Johannes Jacob *Hegetschweiler*, doctor in Stäfa, or whether he will fill the gallery of little quislings who have brought disgrace upon themselves.

cc. The "Uster Memorial" dates back to the 'Ustertag' on 22 November 1830, when 10,000 men of the Canton of Zurich gathered on Zimiker Hill and demanded a new constitution. Their primary concern was parity between the urban and rural areas. The

Ustertag is often described as a "revolution" due to its impact, its focus, and its speed of events, which caused great change in the Canton of Zurich. In the following we reprint the declaration called Uster Memorial in an (unofficial) translation into English.

„Uster-Memorial“

*Respectful presentation of the cantonal assembly of the Canton of Zurich,
held at Uster, Monday 22 November 1830*

High-born, highly respected squire and official mayor! Highly respected, honorable men and nobles!

It is well known that the incidents that have taken place in France in the last days of the past July and which are of great importance for Europe, have awakened in our common fatherland, and especially in our Canton, the different desires and wishes that have been lulled into slumber by the 1814 events, but which are now on the agenda. In our canton there is a general desire for constitutional change and alleviation. With anticipation we expected the extraordinary Grand Council meeting in Uster, initiated by the assembly of the thirty-one councilors; on the one hand because excesses were to be feared that could endanger property and personal safety, on the other hand because everyone paid attention to the protection of people's rights with troubled temper. The first point – thank God! – has been eliminated by dignified attitude which is adequate to the position of the Grand Council; in contrast to the second point for which many lacked the energetic language, the only suitable means to recall people's lost rights, wherefore also many, trusting in the Grand Council, had to be reasonably discouraged. Utter discouragement in relying on this high authority has spread since the negotiation results of the commission, installed by the Grand Council, have become known. At the present time, however, it is not yet known how the country's highest authority will comment on them. However, it is expected that exactly this authority will not approve of such a request. Besides, considered that the majority of this commission is composed of rural citizens, the defense and security of the people's rights is based on worrying grounds, hence many proponents of law and order were induced to hold a public meeting in Uster and hear the wishes of the people, either by consulting the individual or by taking a majority decision. They did so due to the loudly seething populace, the enticing examples in neighboring cantons and in the certainty that under these circumstances violent outbursts would follow before long. The assembled people, at least twelve thousand men in number, are convinced:

1. That the people in Free States or the totality of the free men are the sover-

eign, therefore the Constitution should be revised with their consent only:

2. That not only the entire Grand Council of Zurich, but also the majority of citizens will recognize the urgent necessity of a revision and various changes to the basic law – the Constitution:
3. That neither the Constitution, established in 1814 without a formal approval by the people, nor the nature of the representational system include an unconditional authorization for the current Grand Councilors to make these amendments without the people approving of them:
4. That the previous steps taken by the people's deputies offer no sufficient guarantee that the new Constitution would be drafted according to the spirit of the time, the nature of a free state and the will of the people and submitted to the latter for approval and oath:
5. That the Constitution can only last and be sustainable if it meets the needs and demands of the majority:
6. That the people's sentiments towards this holiest interest of a free citizen have not yet been explored in any suitable manner; rather the lack of a proclamation and the previously omitted opening of a way to present their views seem to prove that knowing them is not welcome:
7. That it initially would involve the establishment of a reasonable representation ratio and a free way of voting; that while the population presented the only acceptable measure for this ratio, consideration should currently be taken for education and wealth, and the rights of a free citizen ought to be demanded so that elections are initiated mainly by him:
8. Convicted that at last the proposal of the Grand Council commission does not meet these requirements, but the opposing will of the people is expressed increasingly louder and the peace of the state necessitates a current and sensible amendment; – approved and adopted: To pass a memorandum for the Grand Council and bring the generally expressed desires and wishes to its chairmen in all respectfulness.

The generally prevailing desire that is closest to the people, their laws and their interest is hence:

1. A proportionate representation in the Grand Council:
2. A better electoral system.

With regard to the first point, the particular appeal has been unanimously decided today so that the Grand Council would from now on be constituted of two thirds of rural citizens and one third of the citizens of Zurich.

We hope that this demand will meet with general approval, since it is not only based on the law but also on equity; and we also hope that the same will not be challenged by either side, much less disputed. In the unexpected event, we would have to support our request as follows and reply every opponent:

1. That the natural liberty of each people and the rights inherited from God require complete equality of all rights and demand a completely uniform representation in an established board. We now require no more than two thirds, and in a unique recognition of its merits we allow the laudable city of Zurich, in which hardly the twentieth part of the population of the canton live, a third of the representation in all major councils.
2. That the noble citizenry issued a liberty letter on 5 February 1798 which contained essentially the following: "We mayors, minor and major councilors of the city and the Republic of Zurich make known herewith after due consent of our citizenry: that in careful consideration of the current extremely precarious situation of our dear fatherland, in fixed determination to defend its former independence against any foreign enemy with blood and treasure as well as to establish and safely found fraternal harmony between the city and our whole country, after mature deliberation, we decided to issue and make publicly known the following solemn statement."
 1. "That an entirely perfect liberty and equality of all political and civil rights should be concluded between the inhabitants of the city and the country and the municipal cities."

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"The 'Uster Memorial'"

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2. e t c.

By this solemn declaration the laudable citizenry of Zurich has renounced their autocracy in a glorious manner, which lasted until 1798, and declared the rural population, who was attached to them even in days of distress and danger, emancipated from their former subject status. The nobler sense of the citizens of Zurich suggests that none of those who confessed to this solemn declaration and are still alive and none of their offspring will withdraw the word given by their fathers for ignoble purposes.

3. That the Act of Mediation of 19 February 1803 says in the third article: "In Switzerland there are neither subjugated lands nor any privileges for places, places of birth, for the person or the family."

4. That the thirteenth article of the Cantonal Constitution of the above date, declares the political rights of the city and the country in so far as the purely republican principles, according to the act of 5 February 1798, provide the country with an average of four-fifths of representatives in the Grand Council.

Asked for the reason and the law, by means of which the Constitution was changed in 1814 to the detriment of the country, the answer is: The necessities of the time. We will now not examine whether this information is incorrect or not; we do not want to demand an explanation about the convention of old confederate communities of 29 December 1813, but say on the other hand that we can hardly believe that a foreign power wanted to know whether the city of Zurich had only a fifth or 130 representatives. On the one hand and on the other, that if the circumstances have really required a constitutional amendment to the disadvantage of the country, this urgency does no longer exist.

Comparing therefore the purely republican rights granted to the people with their present claim that they have reduced themselves and admitted advantages to the townsfolk in 1830 which the latter did not require 32 years ago, so every unprejudiced person will consider the demand of two-thirds the utmost lawfulness, the grandest fairness and the greatest modesty, and convince himself that this desire will not least attest a backward step in the formation of the Zurich peasantry. If we consider some of the neighboring cantons whose governments are appointed to the satisfaction of the people, where purer republican principles were observed – comparing the people of these cantons with ours, so no one will claim that we

are not ready to make similar constitutional progress.

With regard to the second point, concerning the electoral system, the assembly unanimously sought that the following should be set by the constitution:

1. That five sixths of the country's two-thirds seats may be directly elected by the guilds at any time.
2. The term of office is to be reduced to 3 years; the resigned should however be re-electable.
3. Eligibility should remain and be completely independent from property.
4. All the arrangements and intrigues inhibiting the promotion and purity of elections are to be eliminated and the election police be renewed.
5. The existing dismissal elections are to be abolished.
6. The residents should be allowed to exercise the right to vote at their places of residence.

By answering these two major requirements the rural population will see their next and most sacred interest satisfied for the present moving moment. But since they were once forced to appear in a state convention, they also considered mandatory to reveal the all too glaring defects of the Constitution and laws, and to require satisfactory remedy from their representatives. The issues on which the Assembly unanimously decided to seek redress are the following:

1. That soon a total revision of the Constitution and of the cantonal laws will be started in all branches by consulting jurists and national experts.
2. That a statutory procedure will draw up a draft on how to change the Constitution in the future according to the civilized behavior and the common needs.
3. That from now on the desired constitution and all future constitutional changes may only come into force and effect only after receiving the people's approval in primary assemblies.
4. Separation of powers in the state at all levels.
5. Freedom of press as steady basic law.
6. Publication of the Grand Council protocol and public meetings of the Grand Council, depending on the location.
7. The right for the people to voice complaints and wishes to the Grand Council, or a legally ensured right of petition.
8. Election of governors by the Minor Council; election of the chief justice by the Supreme Court. Proposal for magistrates by the elective corps and periodic renewals of all of these posts every three years.
9. Free election of municipal presidents and magistrates, of mayors after a three-fold proposal by the municipalities through the Minor Council and periodic renewal of these posts and suggestions every three years.

Together with this particular desire of an improvement of the Constitution the cantonal assembly expresses the following general requirements:

1. Abolition of compulsory guild membership.
2. Cancellation of the existing barracks service and legal and appropriate transfer of the mounting taxes.
3. Conditional early release from military service without interruption of the country's armament.
4. Reduction of the drinking, stamping as of most indirect taxes.
5. Repealing of the breeding bull act.
6. Merger of the rural police tax with general government spending and reduction of the corps.
7. Repealing of port and warehouse duties against full compensation.
8. Consideration of the all too annoying tithe income in various places.
9. Statutory reduction of the interest rate from 5 to 4%.
10. Abolition of the hunting ban.
11. Change of the current lawyers' regulations.
12. Legal right of congregations to choose their pastors from a threefold suggestion of candidates after previous trial sermon.
13. Special public access to the state budget for submission to the communities.
14. Against the facilitation of indirect taxes and a fair taxation of property.
15. As one of the most important needs major improvements in the school system.

In the course of the negotiations of certain desires and general wishes, the following specific comments and wishes and desires have been expressed from different sides and the meeting was requested to present them to our high government authority:

1. Revision of ransom act for dry and wet tithes and the corporate law to pay interest on the tithe ransom capital.
2. Legal regulation of money paid by residents.
3. A drastic law with respect to building and maintenance of roads and footpaths.
4. Mitigation of forestry regulations, including the protection against arbitrary forest officials.
5. As various sides have expressed complaints against the development of weaving machines and threats against them have been spoken, the Grand Council is invited to take charge of things, send experts out, examine places, listen to the lament of the people and make known the charge to the public by an open note and end the operation of the machines.

Motivated by the people's quiet but firm will, but not without anxious expectations, many men who heard the people's

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On the winter session: 3rd December at the National Council

Constitutional jurisdiction is not appropriate for Switzerland

Commitment to the Swiss understanding of the State: primacy of the legislative over the judiciary

by Dr iur Marianne Wüthrich

On 3 December 2012, the National Council will decide for the second time whether Switzerland should establish a constitutional court at the federal level or not. A year ago, it agreed to the draft by a narrow margin (95 to 90 votes in favor, 94 to 86 in the overall vote). The Council of States opposed this unconvincing Yes on 5 June 2012 with an emphatic No in the introductory debate (27 No to 17 Yes).

Since the introduction of constitutional jurisdiction in the federal government requires a fundamental restructuring of the Swiss state structure, the clear No of the smaller chamber has set a milestone. The Council of States has proven once again to be the “chamber of reflection”. In the following, we print some excerpts from the Council of States’ debate in summer 2012 which gives an excellent insight into the Swiss understanding of the State.

Unlike most countries, Switzerland has no constitutional court on the federal level which could verify the compliance of federal laws with the Constitution. Rather, according to Article 190 of the Federal Constitution, the Federal Court and the other law-applying authorities at the federal and cantonal level must apply federal laws, even if they hold the opinion that they might contradict a provision of the Federal Constitution.

Art. 190 Applicable law

The Federal Supreme Court and the other judicial authorities shall apply the federal laws and international law.

Two parliamentary initiatives requested to delete Article 190 of the Swiss Federal Constitution. This would mean that in future all authorities would be forced to

make the application of a federal law dependent on its compatibility with the Constitution in any particular case.

“Why should I trust and expect more of 5 judges than of 246 parliamentarians?”

The question now is this: Should the law-applying authorities be given the competence to interfere massively with legislative power when applying a federal act?

From the Council of States’ debate on 5 June 2012: Karin Keller-Sutter (FDP, SG): “The current balance of power of the three branches of government in the state would certainly be severely disrupted if we were to interfere here. Even the principle of democracy and the people’s right to have a say would be weakened. I fear – and I say this as a former head of the Department of Justice – that this will result in a politicization of justice. It is not entirely far-fetched, if we refer to the [American] Supreme Court here in this house. When you see how the judges there are elected according to their political convictions – whether they advocate or oppose abortion, whether they are for or against health care reform – that is just not what we want to have.”

Urs Schwaller (CVP, FR): “Moreover, in our direct democratic system – with initiative and referendum, and with a view to compensating the balance between the executive, legislative and judicial branches, as well as taking into account the position of the sovereign – everything contradicts a unilateral strengthening of the judiciary. I do not want a judges’ state; and I do not want the judges to become the Swiss federal legislative body. Why should I trust five judges more and ex-

pect more of them than of 246 parliamentarians, if the latter do their job properly?”

Raphaël Comte (FDP/The Liberals, NE): “Most of the other states know a constitutional court, but in these countries the control of whether the laws are constitutional is the only way for people to defend their rights – against a parliament that violates the freedom laws provided by the constitution. In Switzerland, the people defend their rights via a referendum or a popular initiative. Therefore, there is no necessity for a judicial authority to correct any errors of parliament. If I were French, I would support a constitutional court, because the ‘Conseil Constitutionnel’ (Constitutional Council) is the sole authority for the protection of citizens against unconstitutional laws that have been introduced by parliament. But in Switzerland, our system of direct democracy grants sufficient protection.” [Translation *Current Concerns*]

Jenny This (SVP, GL): “We are organized according to the principle of the separation of powers. This principle makes a clear distinction between legislation and laws. By introducing constitutional jurisdiction Parliament as a legislative body would be subordinate to the judiciary’s and administration’s controls. But it is almost impossible that a broad-based will of the Parliament with its elected representatives weighs less than the will of some judge or administrative official; colleague Schwaller has impressively described that. This is not my understanding of democracy, especially since the courts are already hopelessly overburdened. Do we want to impose these surcharges and more on them? Our system is working properly. So why should we

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“The ‘Uster Memorial’”

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complaints in Uster and asked the same for patience and calmness, have decided to draft this memorial, which they hand over to a wise and fair government without any other purpose than to serve the fatherland; and they venture to express the conviction that only a radical improvement of the Constitution and lasting relief for the complaints may soothe the dissatisfaction and unrest that is increasing week by week. However, if the high government lends a hand for the solution to the problem, which the above-

mentioned men announced to the meeting in Uster: “Redress should redress be procured!”, the same can rely on a lasting peace and on the loyalty of their people as well as on their unwavering affection and joyful devotion of life and property in any situation. However, as the people have shown earlier and on that day, we may assume that if we fail to meet their desires, they may repeat their wishes with the same courage, but perhaps not with the same calmness. In order to convince you of the general wish for constitutional improvement those men take the liberty of presenting only a few thousand signatures on behalf of the 12,000 citizens that are present here.

Finally, on behalf of the people, we ask the honorable to approve of the assurance of our deep respect.

So signed in Zurich, 24 November 1830.

The representatives, on behalf of the assembled at least twelve thousand cantonal citizens:

In the name and on behalf of the entire citizenry of Winterthur:

G.A. Hirzel, city councilor
Troll, Rector.

Rieter, city councilor,

I.R. Heller, teacher at the local school.
On behalf of the commune of Zollikon,
district of Zurich:

Thommann, major, from Zollikon.

"Constitutional jurisdiction ..."

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shake it and tinker with it? We have yet to solve enough problems in Switzerland, so we do not have to shake up things that are well organized. I would therefore ask you – last not least out of democratic and political considerations – not to approve of the bill."

There are very good reasons to stick to the basic decisions, that were founded in the young federal state the 19th century and were developed until today

A federal law does not develop overnight. The delicate process of eliminating differences in the legislative process of the Federation is not just a struggle between the two chambers about legal issues, but first and foremost a political process. In this political process, the judiciary has no place.

Martin Schmid (FDP, GR): "The key question is not whether unconstitutional laws should be applicable, and certainly not whether one is for or against the rule of law. The crucial question is: Who should be responsible for the ultimate authentic concretization of open constitutional norms? And there are – and I refer to the professors *Richli* and *Seiler*, who are members of the commission – two central fundamental positions. One side says, the concretization of the Constitution is a legal and regulatory issue. Whether an act is constitutional or not, cannot just be answered by yes or no according to legal methods. The other side, which I belong to, says: Filling the concretization space left open by the Constitution cannot simply be done by legal criteria, but it requires a classification influenced by political aspects. Consequently, it is up to the federal government to make this classification. [...] Legislature will lead this debate, and if we disagree with the result, we can take the referendum accordingly. I think this particular example shows that in our democratic system between the various systems the legislative power, the judicial power and the executive power are balanced and that there are, in my view, no changes necessary."

Paul Rechsteiner (SP, SG): "An issue that has been referred to several times is that the different retirement age for men and women within the pension scheme must ultimately be decided on the political and not on the judicial level. In very difficult issues concerning ethical attitudes, such as abortion – I refer to the previous statements – or the attitude towards genetic engineering, the problem is that we cannot say that a judge's decision is ultimately more rational than a referendum.

To draw a balance, there are very good reasons – for the relationship among institutions in a direct democracy – to stick to the basic decisions, as they have been taken in

the 19th century in the young state and have been developed in the last decades with the international human rights covenants. Article 190 with its primacy of federal legislation expresses nothing else than the view that political issues have to be resolved politically."

Raphaël Comte (FDP/The Liberals, NE): "Sometimes the Constitution is in need of interpretation. The Federal Constitution guarantees the right to marry, but is this right valid exclusively for heterosexual couples, or is it to be extended to gay couples? Should we restrict ourselves to a traditional definition of marriage, or shall we, on the contrary, be satisfied with a purely legal point of view and apply the principle of equal treatment in a strict manner? Again, this is primarily a political issue, and the Constitution does not give a clear answer. Swiss legislation provides the answer by limiting marriage to heterosexual couples and introduced a registered partnership for homosexual couples. [...]"

The problem actually is not strictly legal. The way the interpretation of the Constitution and the balance of interests between therein enshrined freedom rights depends on what kind of social theory someone favors. Depending on whether he is more liberal or conservative, he will justify his interpretation of the Constitution differently. This clearly shows that the control of constitutionality includes a powerful political dimension in the broad sense of a social theory, and everyone handles this analysis on the basis of his own set of values. Today, this balancing of interests is up to the legislative. Parliament and the people – in the case of a referendum – try to find a compromise that makes it possible to reconcile different constitutional liberties. Could we imagine the task of balancing these interests done by a judge? Could we imagine a judge rejecting the implementation of this law on the grounds that he has a different view on it, either a more liberal or a more conservative one?" [Translation *Current Concerns*]

In our system of direct democracy, the people assume a good portion of the control

Switzerland is a direct democracy, a federal country with strong democratic rights. Accordingly the legislative, meaning the Sovereign and the Parliament, the Federal Assembly, possess the highest position in the state structure. The three branches of government are not quite equal in the Swiss state model, by the way in neither model.

Pirmin Bischof (CVP, SO): "In our system of direct democracy, the referendum law assumes much of the law control, which in other legal systems can only be assumed by the constitutional courts. [...] So what is right and what is wrong? It is clear that in a parliamentary system, a constitutional court must exert this constitutional judicial

control, there is no one else. In our system of direct democracy, a good part of this control is taken over by the people.

This is not populist, it's the core content of our constitutional order that, in this country, at the end of each federal legislation there is an optional referendum. In this country, 50,000 people can take the referendum against every law, and then the people will decide. And this is a good and right."

Raphaël Comte (FDP, NE): "Certainly, the men in this country could rightly complain that they must wait one year longer than women for their pensions, but this little injustice is one of the rare examples of a federal law that violates the Constitution with regard to equality between men and women. [...]"

Since the people rejected a revision of the AHV (old-age-pension), which should have put men and women on an equal basis with the same retirement age, it has deliberately maintained a difference in treatment, which is clearly a problem. But if a judge disavowed the people [snubs the people], it is feared that the reaction of the population will turn out to be a vehement one, and the feeling that the people's will is not respected, would be a very unfortunate effect thereof. Do we really want a judge to annul the will of the Swiss people?" [Translation *Current Concerns*]

Paul Rechsteiner (SP, SG): "The debate on constitutional jurisdiction is not only about the hierarchy of legal norms, but also about the interference with the existing institutional order, which would have serious consequences, I think. In the US, the Constitutional Court, the Supreme Court ranks above the legislator. [...] This Supreme Court is the most political court of the world. The result of the strong position of the Supreme Court is, inter alia, that the law development concerning fundamental questions takes place in the first place by means of 'case law' and not by means of law.

Concerning the Swiss Federal Constitution, a different path was chosen in the democratic refoundation in the 19th Century. [...] In Switzerland the corrective for the legislators are the rights of direct democracy. Conversely, for the judges the federal acts are still binding today – deliberately, the federal acts and not the cantonal ones. [...]"

What could happen if Article 190 were deleted and social and economic policy issues would suddenly be decided by the Federal Supreme Court of Switzerland in the last instance? What that could mean, we are experiencing now in the US. The biggest domestic success of the *Obama* administration was the health care reform with the mandatory health insurance. Now highly politically argumentative members of the Supreme Court decide as to whether

"Constitutional jurisdiction ..."

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er this reform is constitutional or not, i.e. whether the mandatory health insurance unduly restricts economic liberties or not.

With us, we remember, the compulsory health insurance was introduced in 1996 with the CCG and approved of by the popular vote in a referendum. Is it now to be that this compulsory insurance wanted by the people, in case it still does not fit some people politically, might be bypassed by some constitutional judges?"

Ivo Bischofberger (CVP, AI): "The fact that this provision is maintained by Article 190, there are good reasons for me as a non-lawyer, from the perspective of the state form of direct democracy, and above all from the perspective of a rural community canton. For me the referendum law is in the center allowing the Swiss population to defend itself against a law and to subject it under a referendum. A federal law, which comes into force, was therefore approved, either implicitly, in renunciation of a referendum, or explicitly by assuming a vote by the Sovereign, who has also adopted the Federal Constitution. Therefore it is not the business of the judges to contradict this will. [...]"

And lastly, no more and no less, it is all about the valuable good, who in the federal policy, who in this our country, has the final say. It has always been to our best that no judge could impose himself on the people."

No reason whatsoever to overturn the Swiss model

The introduction of constitutional jurisdiction with regard to federal laws must be rejected due to the stated reasons, but also for broader, fundamental reasons.

We have to fight any attempt to overturn the direct democratic and the federalist Swiss model. Since years there have been the same circles who want to reshape Switzerland to make it compatible to the EU: increased power for the executive authority by forming metropolitan areas and nature parks, and now more power for the judiciary – always at the expense of the legislative, meaning direct democracy.

The solution to the problem is quite simple and is already practiced by the Federal Supreme Court: it preliminary checks a federal act for potential unconstitutionality and points out in the judgment if there is a contradiction to the constitution in the opinion of the judges. Then it's up to the Federal Councils, whether they want to take the point up. And the legislature finally decides whether the law will be modified by the parliament and legitimized by the sovereign.

Martin Schmid (FDP, GR): "Today the Federal Supreme Court has already the possibility to indicate and to give a signal to the legislature in a specific court decision, that a certain provision was uncon-

Personal conviction rather than party discipline

mw. Maintaining party discipline is not a topic in Switzerland. It is true that before the debate on an issue, fractions arrange the opinion which will be represented by the majority of members – and unfortunately it is often the case that members of the parliament vote with the majority of the fraction, against their own opinion. However, practically with every ballot in the Councils there are sometimes variations that can lead to surprising vote result.

According to Article 3 of the Parliament Act of 13 December 2002, each member of the assembly takes an oath or a vow.

Art. 3 oath and vow

4 The oath reads:

"I swear before the Almighty God to respect the Constitution and the laws and fulfil the duties of my office conscientiously."

5 The vow reads:

"I promise to respect the Constitution and the laws and fulfil the duties conscientiously."

Included therein is the obligation of every member of the Councils to decide according to his personal conviction, when voting.

Example ballot on

Constitutional jurisdiction

Happily, also in this ballot the National Council and Council of States have shown that sometimes Swiss parliamentarians vote very independently of party discipline.

Ballot for advocacy issue in the National Council 6.12.2011

95 Yes versus 90 No.

Liberal green, green party, BDP complete in favour; SVP complete against it; FDP-liberals 6 yes/21 no; SP 39 yes/6 no; CVP 17 yes/10 no.

Ballot for advocacy issue in the Council of States 6.5.2012

27 no versus 17 yes (In the Council of States there is no electronic vote, but – as in a community meeting or a "Landsgemeinde" – parliamentarians vote by show of hands, that is why the party distribution is not recorded. This clear voting ratio shows, that within the individual fractions members voted differently.)

It is to wish the parliamentarians of the National Council and the Council of States that they continue to dare this personal independence.

stitutional according to the Federal Court. [...] I just mean that it is sufficient. [...] It is a matter of assessment, and in my opinion it is up to the Parliament to decide on this concerned open constitutional clause."

"Whenever I see the following statement in some policy area: 'Federal government and cantons are coordinating their efforts', some warning bells are ringing"

Actually it is a big problem that recently the Swiss Federal Government has increasingly interfered with areas – partly outside the legislation – which are clearly within the competence of the cantons according to the Constitution: in the health-care sector (Prevention Act, Act on Epidemics, Epizootic Diseases Act), in education (*Bologna, Pisa* – without legal basis), spatial planning (Spatial Planning Act, Spatial Concept of Switzerland), to name just a few particularly grave examples. Here, not only we as citizens are challenged to be vigilant and to defend ourselves against such unconstitutional intervention, but also the members of the National Parliament and the Council of States. It is doubtful that a court would fulfill this role better. In particular the Council of States, the chamber of the cantons, is called upon to ensure the preservation of the constitutional powers of the cantons.

Pirmin Bischof (CVP, SO): "The question whether the Federal Government is responsible to 'legi-ferre' in a specific area would newly become a question to be answered by the Supreme Court. One can debate with good intentions, whether the Hooligan Act of 2006 is compliant to the constitution,

whether it is in the competence of the Federal Government. Another example is the Fixed Book Price Law. There the question comes up if it had been issued on a sufficient basis; finally the people removed it by voting against the law. Or, last week we have debated here about the Prevention Act. It ought to be examined whether it has a sufficient constitutional foundation in our federal constitutional system."

Karin Keller-Sutter (FDP, SG): "During the consultation to this proposal in May 2011 conducted by the Commission for Legal Affairs of the National Council, I was representative of my Canton in the Conference of Cantonal Governments. The debate among the cantons ran similarly at that time as in this chamber today. But interestingly it didn't come to a quorum for the expansion of the constitutional jurisdiction at that time. This is actually amazing, because from my point of view, and I think from the point of view of many cantons this would be the striking argument, that this way the constitutional division of powers between the Confederation and the Cantons could be checked and verified, which is not the case today.

On the other hand, the legislator is anyway obliged to comply with the constitutional order and to take into account the competences of the confederation and the cantons. And as representative of the canton one may expect, that the legislator adheres to this constitutional order. With the creation of the *Federal Act on Measures on Inner Security* (BWI), the Hooligan Act, he has

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Failed tax agreement with Germany – “Switzerland can tackle this very dispassionately” Automatic information exchange – “Switzerland must not respond to such claims”

Commentary by National Councillor Ruedi Noser on Radio DRS



National Councillor
Noser (picture ma)

thk. As could be expected, the German “Bundesrat” (Parliament of the “Länder”), which is SPD-dominated, rejected the tax agreement with Switzerland. Spokesman of the opposition against the tax in the Federal

Council of Germany agreement was Norbert Walter-Borjans, who has made an inglorious name for himself because of his law violations by promoting data theft from Swiss banks. Since the “Bundestag” (Federal Parliament) had agreed to the law with the CDU / FDP majority, on 14 December the mediation procedure for the reconciliation of differences will follow, which has really no meaning for Switzerland, as the Swiss National Council approved the law, which does de facto not allow any more change.

While in several opinions of the Swiss side there rarely was to be heard a clear and unambiguous statement on the anyway for Switzerland unacceptable tax agreement, the following comment published by the National Council Ruedi Noser (FDP) on Swiss Radio DRS was a real relief. His dignified attitude towards an unworthy game by German politicians who with the instrument of the agreement want to make the Swiss government collecting German tax liabilities and make our country responsible for Germany’s incompetent fiscal policies and want to distract from their own unresolved issues this way, impresses and gives our land the place it needs to have in the negotiations as an equal negotiating partner. An atti-

tude that you would like to see in many of our elected representatives.

It would be absurd if a state would have to adopt the tax laws of another country as its own and thus give up its sovereignty in this area. It’s the problem of Germany, when it is not able to shape the tax code in a way that the citizens pay their taxes in their own country. Germany wants help from Switzerland. But please, in that case it should study Switzerland’s political system and implement what has been proven. That would help more than all international treaties that finally fail because of their own lack of unity. The No on this issue is no problem for Switzerland, our laws are adequate and have been well-proved over decades.

DRS: Domestic reporter Elmar Plozza spoke with Ruedi Noser about this No!. Ruedi Noser is Vice President of the Commission for Economy and Discharge in the National Council and FDP politician. In his view, especially the German government has a problem.

The German government has negotiated the agreement with Switzerland, now the German government must show that it is executorial; if they do not succeed in getting the agreement adopted, it is apparently not a functioning government.

What would it mean for Switzerland, if this tax agreement fails?

Actually, nothing. If the Germans reject this agreement, it is up to the Germans, to propose what else they want. In that case we have to negotiate the issue again. The government has shown that you cannot negotiate with it successfully which means you have to wait for new elections before we can negotiate at all. This means, however, that next year you cannot negotiate anything, because there is an election cam-

paign. This means that you start with negotiation in 2014s. Then there will be results in 2016/2017 at the earliest. That means nothing else for Germany, but that very many matters are time-barred again. Nothing more will happen. This means that Switzerland can take it very dispassionately.

In the meantime, the German “Länder” could continue to purchase stolen CDs with Swiss bank data. That would not be very pleasant from a Swiss perspective.

Oh, I’ve never understood why that is always portrayed as unpleasant. If you want a bank secrecy, then the banks must be able to protect the data. If they cannot protect them, there is no bank secrecy. It is up to the banks to ensure that data security is guaranteed. If they cannot, CDs will continue to be bought, with or without agreement. If not by Germany, then just by France or Spain or the United States. The primary duty is to ensure that you can really keep the business data secret. If this does not work, then the bank secrecy is gone, either way.

Politically, it is expected that Germany and possibly other European countries will push for an automatic exchange of information to combat future tax evaders. How should Switzerland respond to that?

Yes well, we really shouldn’t care about that at the moment. There is the OECD standard, which is accepted by the EU, as well. According to the OECD standard the automatic exchange of information is currently not provided for and therefore not an issue. Switzerland must not respond to such claims.

But you also say “at the moment”. The pressure for automatic exchange of information might become greater.

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proven to be able to do so. Here the legislator was very creative. Namely, he said: what we are doing is actually unconstitutional, because the existing division of powers between the confederation and the cantons is not respected. The cantons are responsible for internal security, not the Federal Government, therefore we limit these provisions of the Federal law in time. In the meantime this Hooligan Act has been transferred in a concordat. [...]

Robert Cramer has correctly pointed out that it is task of the Council of States to ensure the constitutional order, the division of powers between the Confederation and the cantons. He has mentioned the spatial planning act, one could give other examples. The Prevention Act has already been mentioned. This act also states that the efforts in the area of prevention ‘should be coordinated’. Whenever I see the statement in some policy area: ‘Federal government and cantons are coordinating their efforts’, some warning bells are ringing, because Professor Schweizer has stated rightly [...] that the Federal Govern-

ment understands under ‘Coordination’ always ‘increase of power for the federal institutions.’

In other words, this coordination will cause competencies being moved to the Federal Government. But it would be our task to stop this. It would be our task so to speak to impose discipline, and also to say: physical education, musical education is the responsibility of the cantons and not responsibility of the federal legislature. To do this, it therefore doesn’t take constitutional jurisdiction from my point of view, even if this seems decent at first glance.”

Syria

The many faces of Sheikh Ahmad Moaz Al-Khatib

by Thierry Meyssan

The dislocation of the armed Syrian opposition is a reflection of the conflict between the various States which are trying to “change the regime” in Damascus.

We should pay particular attention to the *Syrian National Council (SNC)*, also known as the Istanbul Council, since it was instituted there. This council is guided with an iron hand by the French *DGSE (Direction Générale de la Sécurité Extérieure)*, and financed by Qatar. Its members, who have obtained residency and various other privileges in France, are under constant pressure from the secret services, who dictate every declaration they make.

The *Local Coordination Committees (LCC)* represent those local civilians who support armed action. Finally, the *Free Syrian Army (FSA)*, which is principally managed by Turkey, unites most of the combatants, including the d’Al-Qaida brigades. 80% of these units recognise the Takfirist Sheikh *Adnan Al-Aro-ur* as their spiritual leader. He is based in Saudi Arabia.

Seeking to regain leadership and bring a little order to this cacophony, Washington ordered the *Arab League* to call a meeting in Doha, sabotaged the SNC, and obliged as many of the tiny groups as possible to integrate a single and exclusive structure – the National Coalition for Syrian Revolutionary and Opposition Forces. Behind the scenes, ambassador *Robert S. Ford* himself allotted the seats and privileges for this assembly, and has imposed as President of the Coalition a personality who has never yet been mentioned in the Press – Sheikh Ahmad Moaz Al-Khatib.

Robert S. Ford is considered to be the State Department’s principal specialist for the Middle East. He was the assistant of *John Negroponte* from 2004 to 2006, while this master spy was busy applying in Iraq the methods he had developed in Honduras – the intensive use of death squads and *Contras*. Shortly before the events in Syria began, Ford was nominated as Ambassador to Damascus, and assumed his functions despite Senate opposition. He immediately applied the Negroponte method to Syria with obvious results.

While the creation of the National Coalition objectifies Washington’s take-over of the armed opposition, it does not solve the question of representivity. Very quickly, various components of the SLA withdrew. In particular, the Coalition excludes any form of opposition which is hostile to armed struggle, especially *Haytham al-Manna’s National Coordination Committee* for Democratic Change.

The choice of Sheikh Ahmad Moaz Al-Khatib responds to a clear necessity – in order for the President to be recognised by the combatants, he has to be a religious figure, but in order to be accepted by Westerners, he has to appear moderate. And especially, in this period of intense negotiations, the new President has to have a solid understanding of the subject in order to discuss the future of Syrian gas – but this is not a subject to be introduced in public.

US spin doctors quickly gave Sheikh Ahmad Moaz Al-Khatib a make-over, dressing him in a suit but no tie. Some of the media speak of him as a “model” leader. For example, a major US daily newspaper presents him as “a unique product of his culture, like Aung San Suu Kyi in Burma”¹

Here is the portrait of him drawn up by the *Agence France Presse (AFP)*:

“Sheikh Ahmad Moaz Al-Khatib, the consensual man:

Born in 1960, Sheikh Ahmad Moaz Al-Khatib is a moderate religious figure who was for a time the Imam of the Omeyyades mosque in Damascus. He belongs to no political party.

It is this independence, and his proximity to Riad Seif at the origin of the initiative for a wider coalition, which makes him a consensual candidate for the leadership of the opposition.

His background is in Sufi Islam. A religious dignitary, he has studied international relations and diplomacy, and is not linked to the Muslim Brotherhood or any other Islamist organisation in the opposition.

Arrested several times in 2012 for having publicly called for the end of

the regime in Damascus, he was forbidden to speak in Syrian mosques by order of the authorities, and found refuge in Qatar.

Born in Damascus, he played a decisive role in the mobilisation of the suburbs of the capital, notably Douma, which was active from the very beginnings of the peaceful demonstrations in March 2011.

“Sheikh al-Khatib is a consensual figure who enjoys true popular support on the ground”, underlines Khaled al-Zeini, a member of the Syrian National Council.”²

The truth is quite different.

In reality, there is absolutely no evidence that Sheikh Ahmad Moaz Al-Khatib ever studied international relations and diplomacy, but he does have training as an engineer in geophysics. He worked for six years for the *al-Furat Petroleum Company* (1985–91), a joint-venture between the national company and other foreign enterprises, including the Anglo-Dutch Shell, with whom he has maintained contact.

In 1992, he inherited the prestigious charge of preacher at the Omeyyades mosque from his father, Sheikh *Mohammed Abu al-Faraj al-Khatib*. He was rapidly relieved of his functions and forbidden to preach anywhere in Syria. However, this episode did not occur in 2012, and has nothing to do with the present contestation – it happened twenty years ago, under *Hafez el-Assad* (father of *Baschar al-Assad*). At that time, Syria was supporting the international intervention to liberate Kuwait, in respect of international law, in order to get rid of their Iraqi rival, and also to forge closer ties with the West. As for the Sheikh, he was opposed to “Desert Storm” for the same religious motives which were proclaimed by *Oussama Ben Laden* – with whom he aligned himself – notably the refusal of Western presence on Arab lands, which they consider sacrilegious. This position led him to deliver a number of anti-semitic and anti-Western diatribes.

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“Failed tax agreement ...”

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Of course, it may be that this is what the EU desires. But once again: if Germany negotiates agreements and afterwards cannot implement them in their own country, it cannot demand anything, as long as

this government is in place. Which means you have to wait until a new government is there. Then you can re-start negotiations. I do not want to anticipate the content now. But it is clear, it must be negotiated. It will take two, three, four years, until the law is in effect. But honestly, you also have to say, that since 2009 banks have accepted only

taxed money. Then it would be 2016/17. In Germany, a 10-year statute of limitations is valid. This means that most of the issues then are time-barred, and thus the problem is no longer as great. •

Source: *Radio DRS*, “Heute morgen”, 24.11.2012

(Translation *Current Concerns*)

“The enemy of my enemy is my friend” – an instrument of imperial interests that might also turn into a boomerang

hhg. When reading the article by Tierry Meyssan entitled “Why a New War against Gaza?” (Current Concerns, No. 49) it is worth while consulting “Devil’s Game” (2005) by Robert Dreyfuss which is an excellent reference book as a background information. It is the first complete research work on a secret field of American foreign policy: the support given to fundamentalist Islam since World War II until today. As Meyssan declares: at the latest practiced in Jordania, Syria and as with respect to Hamas.

Dreyfuss’ ample study is based on exact research, on interviews with politicians, collaborators of the American defense and foreign departments. This way Dreyfuss laid the foundations for a real comprehension of the imperial seizure – at first by the British Empire and afterwards by the USA – on the fate of the Middle East. Dreyfuss has done research in the same careful manner on the way the USA had used Islamic fundamentalism as their instrument in the Soviet sphere during the Cold War (Middle Asia, Afghanistan).

“Devil’s Game” has attracted great attention and has met with great approval among such authors as Chalmers Johnson or Seymour Hersh who characterized it as “brilliant book”. It was also Chas W. Freeman who had stayed in Saudi Arabia as a US ambassador and who is therefore an expert on the “hidden agenda”; he also designates the study as “carefully researched”.

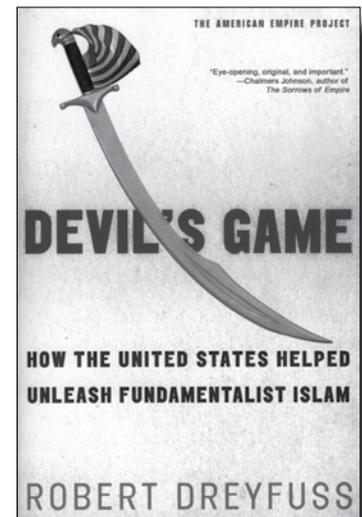
In the 1970s, with the death of Nasser and the retreat of Arab nationalism, the Islamists became an important prop beneath many of the regimes tied to the United States. The United States found itself allied with the Islamic right in Egypt, where Anwar Sadat used that country’s Islamists to build an anti-Nasserist political base; in Pakistan, where General Zia ul-Haq seized power by force and established an Islamist state; and in Sudan,

where the Muslim Brotherhood’s leader, Hassan Turabi, marched toward power. At the same time, the United States began to see Islamic fundamentalism as a tool to be used offensively against the Soviet Union, above all in Afghanistan and Central Asia, where the United States used it as sword aimed at the Soviet Union’s underbelly. And as Iran’s revolution unfolded, latent sympathy for Islamism – combined with widespread U.S. ignorance about Iran’s Islamist currents – led many U.S. officials to see Ayatollah Khomeini as a benign figure, admiring his credentials as an anti-communist. As a result, the United States catastrophically underestimated his movement’s potential in Iran.

Even after the Iranian revolution of 1979, the United States and its allies failed to learn the lesson that Islamism was a dangerous, uncontrollable force. The United States spent billions of dollars to support an Islamist jihad in Afghanistan, whose mujahideen were led by Muslim Brotherhood-allied groups. The United States also looked on uncritically as Israel and Jordan covertly aided terrorists from the Muslim Brotherhood in a civil war in Syria, and as Israel encouraged the spread of Islamism among the Palestinians in the occupied territories, helping to found Hamas. And neo-conservatives joined the CIA’s Bill Casey in the 1980s in secret deals with Iran’s Ayatollah Khomeini.

By the 1990s, the Cold War was over. The political utility of the Islamic right now seemed questionable. Some strategists argued that political Islam was a new threat, the new “ism” replacing communism as America’s global opponent. That, however, wildly exaggerated the power of a movement that was restricted to poor, undeveloped states. Still, from Morocco to Indonesia, political Islam was a force that the United States had to deal with. Washington’s response was muddled and confused.

During the 1990s, the United States



ISBN 978-0-8050-8137-2

faced a series of crises with political Islam: In Algeria, the United States sympathized with the rising forces of political Islam, only to support the Algerian army’s crackdown against them – and then Washington kept open a dialogue with the Algerian Islamists, who increasingly turned to terrorism. In Egypt, the Muslim Brotherhood and its offshoots, including a violent underground movement, posed a dire threat to President Mubarak’s regime, yet the United States toyed with supporting the Brothers. And in Afghanistan, shattered after the decade-long U.S. jihad, the Taliban won early support. Even as Osama bin Laden’s Al Qaeda took shape, the United States found itself in league with the Islamic right in Pakistan, Saudi Arabia, and the Arab Gulf.

And then came 9/11.

Reference: Dreyfuss, Robert (2005).
Devil’s Game: How the United States helped unleash fundamentalist Islam
(pp. 4-5).

“The many faces of Sheik ...”

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Following that, the Sheikh continued his activity as a religious teacher, notably at the *Dutch Institute* in Damascus. He made numerous trips abroad, mainly to Holland, the United Kingdom and the United State. Finally, he settled in Qatar. In 2003-04, during the attribution of oil and gas concessions, he returned to Syria as a lobbyist for the Shell group.

He came back to Syria again at the beginning of 2012, where he inflamed the neighbourhood of Douma (a suburb of Damascus). He was arrested, then pardoned, and left the country in July to settle in Cairo.

His family is indeed steeped in the Sufi tradition, but contrary to what the AFP claims, he is a member of the Muslim brotherhood, and declared this quite clearly at the end of his speech of investiture at Doha. According to the usual technique of the Brotherhood, he adapts not only the form, but also the content of his speeches to his audience. Sometimes leaning towards a multi-religious society, sometimes towards the restoration of sharia law. In his writings, he qualifies Jewish people as “enemies of God”, and Shiite muslims as “rejectionist heretics”, epithets which are the equivalent of a death sentence.

In the end, Ambassador Robert S. Ford has played his hand well – once

again Washington has duped its allies. Just like in Libya, France has taken all the risks, but in the major compromises which are to come, *Total* will have gained no advantage. •

Source: www.voltairenet.org, 23 November 2012

(Translation Pete Kimberley)

¹ “A model leader for Syria?”, *Christian Science Monitor* editorial, 14 November 2012.

² “Un religieux, un ex-député et une femme à la tête de l’opposition syrienne”, *AFP*, 12 November 2012.

“Do you seriously want to send soldiers into such a powder keg? “

“Patriot” anti-aircraft missiles to Turkey – Objective: providing the opposition with a quasi-state area

Open Letter to Philipp Mißfelder, Foreign Policy Spokesman for the Fraction of the Christian Democrats (CDU)



Jochen Scholz
(picture ma)

Dear Mr Mißfelder,
The quotability of the “Frankfurter Allgemeine Zeitung” is certainly beyond doubt. Therefore, I refer to the printed edition of 20 November, in which your remarks regarding the apparently im-

minent deployment of German *Patriot* anti-aircraft missiles to Turkey are quoted as follows:

“The foreign policy spokesman of the CDU parliamentary group, Mißfelder, accused SPD and the Green party of irresponsibility as to their comments. He said if the conditions were given ‘we could not help fulfilling our NATO alliance obligation.’”

Even before you started tentatively to engage yourself politically, this former defensive alliance had served its purpose. Since the dissolution of the *Warsaw Pact* and the subsequent abolishment of the only possible opponent from 1945 to 1999, the leaders of NATO and the group of Nibelung-loyal politicians in Europe frantically searched for a new legitimacy for the alliance. This search resulted in the Strategic Concept of 1999. The transparent complaints by *Volker Rühle* that Germany was surrounded by friends, as well as by the former NATO Secretary General *Manfred Wörner*, “out of area or out of business” had been answered. Since then, this alliance has degenerated into a military toolbox for the USA’s geopolitical goals. and “draws a trail of blood behind,” as a former state secretary and longtime foreign policy politician of your party said. I agree with him and would like to add: Unfortunately, with the participation of a vassal called Federal Republic of Germany. The copyright for this assessment, not only Germany’s, is held by *Zbigniew Brzezinski*, also undoubtedly quotable, compare “The Grand Chessboard”. If this were not the case, I would claim the authorship for myself. So far my remarks on the actual state of affairs in an organization for which you claim alliance obligations. It’s a different matter, despite all the criticism, that NATO has earned itself historical merits by preventing war during the Cold War, in cooperation with the prudent forces of the former Soviet Union, see for example “Able

Archer” 1983 (http://en.wikipedia.org/wiki/Able_Archer_83).

Before I come to deal with the current situation, I want to clean up a variant of the unbearable “Noopolitik” in this country (<http://www.questia.com/read/103995568/the-emergence-of-noopolitik-toward-an-american-information>): these days particularly representative of your party justify the currently practiced alliance obligation towards NATO partners with the allegedly practiced solidarity of the latter with the Federal Republic of Germany during the Cold War. This is a myth and testifies, wherever it is seriously believed (as it is today with a special fervor in parts of the former front city of Berlin), he is either a blockhead or adhering to political kitsch. This “solidarity” did not apply to the Federal Republic but to its geographical location at the junction of the systems. This becomes obvious when considering the command structure of NATO, in those days called “Allied Command Europe”, in the “Central Region”, the deployment of present military forces and the assumed probable site of attack: the so-called “Fulda Gap”.

At the 50th anniversary summit one deliberately refrained from adapting the legal basis of the new strategic concept; hence “alliance obligations” are solely a result of the *North Atlantic Treaty* of 1949, which has remained unchanged in substance (http://www.nato.diplo.de/Vertretung/nato/de/04/Rechtliche_Grundlagen/Nordatlantikvertrag.html), the only binding legal basis for the actions of the Alliance.

Article 3 is irrelevant for the current, situational individual decision, because it addresses the permanent, long-term goal for all parties, “maintain and develop their individual and collective capacity to resist armed attack.” This leaves Articles 4 and 5 as possible legal bases, at least as long as there is no other decision of the UN Security Council.

In the meantime, Turkey in accordance with Article 4 has successfully consulted the NATO partners, who apparently were only too happy to accept the claim that the integrity of the Turkish national territory was threatened. What to make of this claim is shown by a simple comparison between the Turkish and the Syrian forces, even though, when making this comparison it must be taken into account that the latter have been continuously engaged in the Syrian civil war for almost two years. Better than a thousand words, this cartoon leads the Turkish desire to absurdity: <http://www.stuttman-karikaturen.de/>

http://www.karikaturarchiv_4677.html. Turkey is behaving like an innocent victim. However, they are in at least two respects party in this conflict: in the context of the Kurdish issue, and by actively supporting, arming and training so-called freedom fighters from their territory in order to bring about a regime change. Thus Turkey is a de facto combatant. Turkey pursues its own agenda in the current conflict, and knows it is mainly in consonant with the geopolitical interests of the US (<http://www.faz.net/aktuell/feuilleton/syria-und-ihr-denkt-es-geht-um-einen-diktator-11830492.html>).

Article 1 of the North Atlantic Treaty stipulates: “The Parties undertake, as set forth in the Charter of the United Nations, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.” A party violating this commitment has forfeited any right for support or, in their wording, “solidarity”.

In contrast to the Defense Minister’s initial attempts to throw dust into the public’s eyes, we are facing the following facts: In face of the well-known local circumstances and the development of the situation in the last two years, Turkey’s request to redeploy anti-aircraft missiles into its territory close to the Syrian border obviously does not represent a redeployment of troops into a NATO treaty partner as it has been customary for decades among NATO partners in order to improve the interoperability, e.g. by exchanging air force squadrons. Otherwise, a request for consultation according to article 4 would not have been necessary. The Turkish wish is obviously directed towards a situation allowing for the declaration of an armed attack according to article 5. This situation, however, could only arise if the Syrian government attacked Turkish territory. That it should do so, being aware of the NATO treaty stipulations, the relations of military powers and in face of the recent loss of and lack of morale in their own troops, seems as probable as the concurrence of Easter and Christmas on the same day. Nevertheless: the Turkish politicians have already practiced the sublime art of provocation (<http://www.guardian.co.uk/>

“Do you seriously want ...”

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[world/2012/jun/22/turkey-jet-crashes-syria-conflicting-reports?INTCMP=SRCH](http://www.tagesschau.de/ausland/syrien2310.html)).

The Turkish parliament has furnished its government with an anticipatory resolution for a military intervention in a foreign country (<http://www.tagesschau.de/ausland/syrien2310.html>).

Several times the Turkish government has tried to exploit incidents in order to gain NATO support – incidents where the real perpetrator is still unknown. It is commonly known that there are plans for a no-flight zone near the Syrian-Turkish border

Russian convoy in the eastern Mediterranean

by *Witalii Ankow*

According to the General Staff of the Russian Navy, the ships are going to carry Russian citizens living in the Gaza Strip to safety, in case the Israeli-Palestinian conflict will further escalate. Currently, possible variants of the rescue operation are tested, they said.

Last week, the ceasefire between Israel and Palestine in the Gaza Strip negotiated by the US and Egypt came into effect. Russian Foreign Minister *Sergei Lavrov* described the ceasefire as an important step, but not sufficient for the settlement of the conflict. In this context, he expressed the necessity for the commencement of direct negotiations between Israel and Palestine.

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in order to provide a safe haven on Syrian territory for the “freedom fighters” in their continuing fight against the central government. Is this also a good opportunity to provide a quasi-state territory for the opposition coalition considered by several of our allies as the “only legitimate representatives of the Syrian people” (<http://www.tagesschau.de/ausland/grossbritannien-syrien100.html>), protected against the Syrian air force by German *Patriot* anti-aircraft missiles? And all this, if events follow the Turkish wishes, under the command of the Turkish army? (<http://www.zeit.de/politik/ausland/2012-11/nato-russland-patriot>) And this powder keg is where you seriously want to send German soldiers? Dear Mr Mißfelder, all this is of course well known to you. But you are closing your eyes because your friends of the “Atlantikbrücke” on both sides of the water might otherwise raise their eyebrows.

Politicians who are more indebted to Atlantis than to their sovereign and its interests, its constitution and the intention of the German majority demanding more restraint in military issues, should be removed from the controls of power, even the insignificant ones.

With best regards,

*Jochen Scholz**, defender of the constitution, retired (according to paragraph 7, Military Law of the German Federal Armed Forces)

* Jochen Scholz was Lieutenant Colonel in the German Federal Armed Forces and was employed in the German Ministry of Defence until his retirement.

Moscow concerned about NATO's increasing military potential in Turkey

by *Sergei Guneev*

The Russian Foreign Minister *Sergei Lavrov* has reiterated Russia's concerns in a telephone conversation with NATO Secretary General *Anders Fogh Rasmussen* over NATO plans to increase their military potential in Turkey according to a statement by the Russian Foreign Ministry.

The phone conversation took place on initiative of the NATO side.

According to the statement *Rasmussen* informed *Lavrov* about the situation with the request submitted to NATO by Turkey to supply *Patriot* air defense missiles.

The Russian Foreign Minister expressed concerns about the planned expansion of NATO military potential in the region and reiterated the offer to establish a direct link between Ankara and Damascus to avoid unwelcome incidents.

Both sides also discussed the preparations of the ministerial meeting of the Russia-NATO Council convened in Brussels on 4th December.

NATO member Turkey had asked the Alliance to provide *Patriot* air defense systems for the protection of its 900-kilometer border with Syria. According to the Secretary General of NATO Ankara's request by will be immediately examined.

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Too much food ends up in the dustbin

Olma Forum

by Michael Goetz, freelance agricultural journalist LBB GmbH, Eggersriet SG, Switzerland

At the Olma* Forum "What is wrong if foods end up in the dustbin?" there was not only a lively discussion about what is going wrong, but also what could be done better.

According to a study by the FAO about one-third of all food ends up in the dustbin. But where in the food chain does this waste accrue? In his master's thesis at FIT Zurich *Claudio Beretta* investigated not only what we already know about it, but he also interviewed 43 companies in the food industry. Probably the main finding of his work is that approximately 50% of the losses arise with the consumer. "It's unbelievable," the lecturer comments and concludes: "The greatest need for action and the greatest responsibility lie with the consumers." The number of losses are followed by the processing industry with approximately 30% and agricultural production with about 20%. That is about the size ratio.

Other resources are also impaired

As the speaker expressed, mass destruction does not only affect food; other important resources are also affected. Producing 1 kg of apples requires 700 liters of water and even 15,000 litres are necessary to produce one kilogram of meat. The more meat rather than vegetarian foods we eat, the more energy is needed for food production. Regarding meat, only about 6% of the calories that were fed to the animals are eaten as meat. If we ate a third less animal protein, there would be enough food for 45 % more people. "Food is not a private matter. We eat from a globally shared plate", the speaker illustrated the significance of our eating behavior. In order to meet our responsibilities, he proposed the following principles: "I only buy as much as I can eat. I eat all the edible parts. I eat a third less meat." It is not that hard to live along these guidelines, said the speaker. In our affluent society, it is less the quantity that satisfies but the way we eat. The more consciously we eat, the more we can enjoy the food.

Consumers also choose by sight

„How can agriculture contribute to reducing the losses?“, *Andi Melchior*, the discussion moderator, asked the President of the National Council, who is also the President of the *Swiss Farmers Association SBV*. *Hansjörg Walter* stated: „We have rather spoiled consumers with high expectations.“ Above all the farmers had to comply with the standards which the trade and whole-



The members of the podium: Franziska Trösch-Schnyder (left), Hans-Jörg Walter, Christine Wiederkehr-Luther, Andi Melchior, Tobias Sennhauser und Claudio Beretta. (picture M. Götz)

sale distributors set. It was obviously very difficult to change these standards, *Christine Wiederkehr*, Director of Ecology at Migros, explained. When fruit and vegetables were sold unwrapped it often showed that the consumers also chose by sight. Catching fruit or vegetables were preferred to smaller, nondescript ones by the consumers. If a wholesale distributor offered visually less appealing products, then the consumer would buy at the competitor's stall. "Individuals cannot change anything because they always get the short end of the stick", was her conclusion. A change was obviously only possible if the standards were modified in the entire country. This happened in England, when there had been a very poor potato crop all over the country, told *Claudio Beretta*. By leveling down the standards, they had had enough potatoes. The consumers had not objected to the less beautiful appearance.

Hansjörg Walter, too, did not see the solution in leveling down the standards in order to merchandise less appealing food. That would break the price for the whole food. He saw an alternative in technically processing these foods, for example, making apples into apple juice or potatoes into mashed potatoes, as has already been done.

Awareness through information

Tobias Sennhauser from the association "Animal-in-focus" wanted to send a signal to the throwaway society. By offering everything today, grocery stores created

artificial needs. In protest, he repeatedly feeds on foods from the wholesalers' garbage containers. Not least for principle reasons of "solidarity with our fellow-creatures" he saw the solution of the throw-away mentality in living vegan. *Franziska Trösch*, president of the *Consumer's Forum*, came to the consumers' defense. They should become aware of the problem of throwaway. This began at school, where pupils should be taught that food did not only have a monetary value. The panel participants agreed that many foods were disposed too early. The consumers' spokeswoman said that people should again activate their senses and use their common sense to decide whether a product in which the best-before date or use-by date has expired, was still edible. Wholesalers' and retailers' hands were tied up by both legal and organizational reasons, said the spokesperson of Migros; however the wholesalers often reduced the price prior to the best-before date.

The discussion showed that there were many ideas, but not an ideal solution. Obviously, everyone will have to contribute. When asked by the moderator what he would do if time and costs were irrelevant, *Claudio Beretta* said he was in favor of an information and awareness offensive to make us find out again about the true quality of food.

(www.goetz-beratungen.ch)

* Olma, the Swiss trade fair for agriculture and nutrition (since 1943), is one of the biggest public exhibitions in Switzerland.

(Translation *Current Concerns*)

Strengthening the family

A conference on gender and daycare center policies

ds. “Infliction of damage in early childhood by gender and daycare center policies?” was the topic of a conference on 10 November, organized by “*Zukunft Schweiz*” (Future CH) in Olten. It attracted wide attention. More than 200 people had followed the invitation, including parents, teachers, kindergarten teachers as well as representatives of churches, politics and business. In three lectures and a panel discussion the importance of the family for the child’s development and society were discussed from different angles and gender policy was identified as an attack on just this family. In her lecture “The collapse of our society’s fundamental values through gender mainstreaming”, *Inge Thürkauf* referred to history and contents of the gender ideology. They culminate

in the demand that every person should be free to choose whether he wanted to live as a man or woman regardless of his or her biological sex. *Thürkauf* revealed where gender policy has already been introduced in politics and society and warned against the government-sponsored sexualization of young children and primary school children. The brain researcher Professor Dr *Manfred Spreng* pointed to the gender-ideology’s contradictions to the genetic and physiological differences between man and woman. And *Christa Meves* emphasized the importance of mother-child-relationship in early childhood for the development of the brain and the child’s success in life. She aligned herself with Professor *Spreng* who in his presentation had referred to the harmful

influences of the daycare center policy on the infants’ development of language and cognitive skills and urged upon the participants to inform and strengthen the families. In the discussion National Councillor *Jakob Büchler* (Christian People’s Party – CVP) and his colleague *Yvette Estermann* (Swiss People’s Party – SVP) adopted this view.

Under the motto: “Let children be children – early sexualization: No!” *Zukunft Schweiz*, *Bürger für Bürger* (Citizens for citizens), *Pro Life*, EDU (Federal Democratic Union) and SVP Lucerne invite for a “Great Family Festival” on the Kapellplatz in Lucerne on 1st December from 10am to 4pm to demonstrate against the early sexualization plans of those responsible for infant education. •

Letter to  the Editor

The alternative to the “homo economicus”

Ms *Föllmer-Müller* is right to emphasize the cooperative system as part of a personal economy. Therefore, the SME economy has always separated the cooperatives from corporations. Cooperatives are connected more with the other personnel companies than with corporations.

Corporations work according to the “homo economicus” principle – defined as a rational economic activity – which is only a model; in reality, however, this is only partly true because many decisions of the managers are taken not only in rational-economic terms, but also according to personal preferences and desires.

With regard to the personnel companies the “homo economicus” principle does not even apply theoretically, as our research on SMEs has shown: 4 million entrepre-

neurs in their family businesses (about 95% of all companies in Germany) do not decide in favor of the objective yield but in favor of a subjective one which benefits themselves and their families.

The undersigned himself has invested most of his funds into forestry – and reforested more than 1 million trees – of which he and his son will not have any return, but at least his grandchildren or great grandchildren. This mentality of achieving family profitability applies for personnel companies but contradicts the “homo economicus” principle of a short-term profitability, as managers want to achieve for their companies – especially banks – because they are in their job only for a short period of time and want to enjoy returns during that time.

Cooperatives also predominantly include their members’ requests, demands and profitability considerations, so they have many more elements of personnel management and corporate staff than the former.

The SME economy has proved that the personal economy is not only the most humane form of economic activity, but also the most profitable one according to the wishes of the entrepreneurs’ families. However, this profitability is a long-term, family-based instead of a short-term, profit-based one.

Ms *Föllmer-Müller*’s reference to this fundamental difference was important and correct.

Professor Eberhard Hamer