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Swiss diplomacy facing herculean task

The approval of the so-called mass immigration initiative on 9 February 2014 has thrown Switzerland's policy on Europe off track. The actual repercussions remain unclear at the moment. However, it is evident that a long period of uncertainty is set to follow.

By Jürg Müller

Calm is usually restored quickly in Switzerland after a referendum campaign. It is different this time around after 9 February. This is because Switzerland has important decisions with an uncertain outcome ahead of it rather than having a referendum with a resolved issue behind it. Now begins the herculean task of implementing a decision that will result in virtually Switzerland's entire policy on Europe being placed on a new footing. After the rejection of the European Economic Area (EEA) in 1992, the resultant major economic problems and many years of difficult negotiations over the bilateral approach, the Swiss people clearly endorsed this policy in a total of five referenda since 2000. By voting Yes to the restriction of immigration through quotas on 9 February 2014, they have shaken the foundations of the free movement of persons and therefore also the bilateral agreements.

With 50.3 percent voting Yes, the Swiss people and the cantons approved the so-called mass immigration initiative put forward by the Swiss People's Party (SVP). The federal constitution now states that the number of permits allowing foreigners to reside in Switzerland must be restricted "by means of annual limits and quotas". The initiative did not actually call for the termination of the bilateral agreements but it did demand that the Federal Council enter into follow-up negotiations with the EU on the free movement of persons and therefore on the independent management and control of immigration.

SVP benefits from discontent

The SVP fought practically single-handedly for its initiative against the Federal Council, Parliament, all other parties, trade unions and business federations. Those supporting the proposal attributed full trains, congested roads, housing shortages, wage pressure, greater competition in the labour market, urban sprawl and much more besides solely to the high levels of immigration. Those opposing it failed to

credibly demonstrate that these issues are also caused by domestic factors. Opportunities were also missed to introduce additional measures which would have cushioned the negative effects of immigration with the exception of the support measures that have existed for years in the areas of labour market and salaries. Net immigration of around 80,000 foreigners a year since 2007 – instead of the 8,000 originally forecast by the federal authorities – added to the credibility crisis.

All of this resulted in a Yes vote being cast at the ballot box by a huge variety of different groups – we had the xenophobes and nationalists, a large number of protest voters from across the political spectrum, those fundamentally opposed to the EU, people with fears and anxieties of all kinds to do with the loss of jobs and identity among other things, and finally left-wing/green environmentalists and critics of growth.

Great uncertainty looms

The introduction of quotas infringes upon the fundamental EU principle of free movement of persons. The Federal Coun-

cil must now attempt to mould the new constitutional text into legislation. The distribution of the quotas between cantons, regions and economic sectors may result in fierce disputes. For the booming Swiss economy, the pool of foreign labour is a vital factor in light of the domestic shortage of specialists. The quota issue will present major difficulties in domestic politics while the Federal Council must also ensure that relations with the EU do not veer off course.

Reaction abroad has been extremely varied. EU-sceptic and right-wing extremist parties have openly applauded. Official bodies at EU headquarters and in EU states, while expressing verbal understanding, have mainly voiced their concern and, in some cases, their disappointment and indignation.

Specific political repercussions emerged just a few days after the referendum. Previously agreed discussions over a power agreement and an institutional framework agreement have been suspended by the EU for the time being. As Switzerland cannot currently sign the protocol on the extension of the free movement of persons to Croatia

From a middle course on European policy into the danger zone

Comment by Jürg Müller

The middle course on European policy, a path between exclusion and EU accession, is in jeopardy. The successful bilateral agreements have thus far enabled Switzerland to benefit from a high degree of European integration and access to the single market in a tailor-made way without becoming an EU member with full rights and obligations: an extremely attractive, well-balanced special arrangement with our most important economic partner. All of this now hangs in the balance following the acceptance of the mass immigration initiative and the effective termination of the free movement of persons that is of fundamental importance to the EU.

High levels of immigration always present problems as all prosperous regions of the world are experiencing. But the problems Switzerland has now brought upon itself are much greater. There is widespread uncertainty in the economy and society. Political stability is being put to the test as a result of polarisation, and the business world no longer has the confidence to make plans. There will be unproductive wrangling over the structure of the bureaucratic quota system, not to mention the uncertainty over policy on Europe.

CONSEQUENCES FOR THE SWISS ABROAD

The approval of the popular initiative "against mass immigration" will not have any direct legal implications for Swiss living abroad in the immediate future. The agreement between Switzerland and the European Union on free movement will continue to apply. Even in the event that treaties are terminated, the acquired rights of persons already living in an EU state would not be affected. A clause in the treaty on the free movement of persons (art. 23) guarantees them the opportunity to remain in their country of residence. Immigration quotas already exist for countries outside the EU. These entry requirements for persons from third states remain in force until any amendment of the law, which means that no new provisions should apply to Swiss abroad in third states either.

(BE)

There is great uncertainty in the business world. It has emerged that certain investment decisions have been postponed and consideration is being given to relocating abroad. The major bank Credit Suisse predicts that around 80,000 fewer new jobs will be created over the coming three years.

Reading the tea leaves for possible developments

How events will proceed is a matter of speculation. Five scenarios are essentially possible:

■ **Scenario 1:** The EU enters into follow-up negotiations over the free movement of persons despite all EU representatives so far having ruled this out: the answer in the past has categorically been "non-negotiable". If formal negotiations were nevertheless to take place, there is no way of predicting whether an outcome acceptable to all sides could even be reached.

■ **Scenario 2:** Switzerland unilaterally implements the initiative and introduces quotas. This must take place within three years according to the new constitutional text, either in the form of legislation or by means of a Federal Council ordinance. If developments reach this stage, Switzerland does not have to formally terminate the agreement on free movement but it would have effectively changed the rules of play. The EU would have to respond and initially evaluate whether the quotas infringe upon the free movement of persons. The EU would explore political as well as legal considerations. If the free movement of persons was affected by very high quotas in law but not in real terms, the EU might be inclined to show clemency. Brussels would only implement countermeasures if Switzerland then denied EU citizens the right of residence. However, the hurdle in domestic politics of the referendum also poses a threat to an implementation law.

■ **Scenario 3:** The EU terminates the agreement on free movement. Owing to the "guillotine clause", the five other agreements of the Bilateral Treaties I would then automatically become null and void having a devastating effect on access to the European single market. Other agreements could then also be drawn into the maelstrom, such as the Schengen/Dublin treaties.

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owing to the new situation, the EU has put negotiations on the "Horizon 2020" research agreement and the "Erasmus" student exchange programme on ice. Negotiations over the renewal of the "Media" film

funding programme have also been abandoned. At the time of going to press, there were signs of both an escalation and an easing of the situation over these and other issues.

One thing is for certain, Switzerland is more dependent on the EU than ever before because Brussels now calls the shots and Switzerland has shifted into the role of suitor. It is no good counting on the SVP's morale-boosting slogans and assertions that it is just a matter of displaying enough self-assurance as the EU is ultimately also dependent on Switzerland. Admittedly, this argument is not entirely baseless as there are always mutual interests. However, in the event of a conflict, one also has to bear in mind the respective differences in size. The EU will insist on adherence to the bilateral rules as it can hardly constantly fulfil special Swiss wishes that it cannot grant to its own Member States.

Some solution will surely be reached after lengthy negotiations whereby a serious downgrading of Switzerland in terms of integration policy will be very difficult to avoid. It would however be naïve to completely rule out the unpleasant scenario of an intensification of the conflict with the EU. In this event, the Swiss people would be unable to escape having to answer the question of whether they want to systematically pursue a course of complete withdrawal in terms of policy on Europe and end up in a valley of economic doom. Or, when they are up to their necks in it, will they knock on Brussels' door as a suitor and accede to the EU because the alternative of a middle course in policy on Europe has been removed from the table once and for all?

■ **Scenario 4:** Swiss diplomatic efforts succeed in making a large package palatable to the EU with negotiation on a broad range of issues, possibly inte-

grated into an extensive institutional framework agreement sought by the EU and with the removal of the free movement of persons sought by Switzerland. This scenario would be tantamount to squaring the circle.

SWISS ABROAD VOTE NO

The Swiss abroad clearly rejected the initiative against mass immigration. In the eight cantons that list the votes of the Swiss abroad separately, the share of No votes stood at between just over 50% and 71%. The proposal was most resoundingly rejected in Geneva and Basel by 71%, while 69% voted against it in the canton of Vaud, 65% in Aargau and 63% in Thurgau. In Appenzell Innerrhoden, which had the second-highest proportion of Yes votes in Switzerland (63.5%), there were just two No votes more among the voters abroad. Approval of the initiative was highest in the canton of Ticino where 68.2% voted in favour. The votes of the Swiss abroad are not listed separately in Ticino. (BE)

■ **Scenario 5:** The Swiss people vote Yes in the referendum on the Ecopop initiative entitled "Stop overpopulation – safeguard our natural environment", which is set to take place this year. Ecopop sees itself as an environmental movement focusing on population issues, but the popular initiative seeks to restrict immigration even more drastically than the successful SVP initiative. If this initiative is accepted by the majority of the people then it will be even harder to know how to proceed than it already is now.

YES TO RAILWAY MILESTONE

The Swiss people set a milestone in Swiss railway history on 9 February when 62% voted in favour of the proposal on the financing and expansion of the railway infrastructure. This will enable the operation, maintenance and expansion of the railways to be uniformly funded from a new railway infrastructure fund. The railway network will additionally undergo an expansion costing 6.4 billion Swiss francs by 2025, with this investment also being approved. The Swiss have traditionally adopted a generous approach towards the railways: they have consistently endorsed billion-franc expansions over recent decades.

ABORTION COSTS REMAIN COVERED

The health insurance schemes will continue to cover abortion costs in future. The Swiss people clearly rejected the "abortion costs are a private matter" popular initiative launched by religious and conservative groups with just under 70% opposing it. (JM)

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