



## Polish Dilemmas on the New European Union Treaty

*Piotr Maciej Kaczyński*

- *In June 2007 the European Council summit will decide on the future of the EU treaty reform. The attitude of the Polish government is that Poland will act to impede the process of integration.*
- *The Polish political class varies in its attitudes towards EU integration. The President, the government and its parliamentary supporters back the idea of a looser integration, whereas the opposition wants to deepen the EU structures and adopt a new treaty as soon as possible. Both sides are accusing each other of betraying national interests.*
- *Despite the internal dispute over the treaty itself, it is possible to find a constructive and coherent position, which could gain greater social and political support.*

## Introduction

In June 2007 the European Council summit will decide on the key issues concerning the future of EU treaty reform. The question of reform has been on hold for the last two years, and the process of ratifying the treaty establishing a Constitution for Europe has halted. The summit will end the “period of reflection and debate” and give a fresh impetus to treaty reform, albeit in a different form, to the Constitutional Treaty.

Reopening the discussion of the treaty reform is a key issue for the German EU presidency. Due to time constraints (the new treaty should enter into force by 2009), Berlin prefers the new document to be broadly similar to the version of the Constitutional Treaty rejected by France and the Netherlands. However, not all European countries share this view. Polish representatives often comment that it is more important to draft a good treaty than to adhere to time constraints.

During the March 2007 EU summit President Lech Kaczyński was the only European leader to mention that the new treaty only has a chance of coming into force after Poland’s presidency in 2011. Other leaders often underline that the new treaty should already be in force by 2009, as this date marks the election of the new European Parliament, followed by a new Commission.

Currently (until the June summit), work on the future treaty has been focused on establishing the scope of negotiations at the Intergovernmental Conference (IGC). Every government has a sovereign right to raise any subject which it wishes to be considered at the IGC. Subsequently, if the summit is a success and the IGC is opened, the second stage of work shall commence, based on agreeing on the final wording of the document to be signed and ratified by all member states.

## The Polish Government’s Position on the EU Treaty

In the course of negotiations to date, Polish governmental representatives have revealed some details of Poland’s negotiating position on the forthcoming treaty. They agreed that the new document should be based on the wording of the existing Constitutional Treaty. Polish leaders view this decision as being a concession to Germany. Based on the existing wording, Warsaw is making demands which have a fundamental impact on the shape of the future document. These include:

- Rejection of the “double majority” voting system agreed in the Constitutional Treaty
- Changing the double majority system so that a member state’s population is replaced by its square root
- Adding a reference to Europe’s Christian roots to the preamble (if there is a preamble in the new treaty)
- Adding a clause to the body of the treaty on member states’ solidarity in the case of an energy crisis

- Rejection of the far-reaching extension of decision-making powers by a qualified majority
- Increasing member states’ parliamentary influence on EU legislature by granting them veto rights
- Lack of agreement to the appointment of an EU Minister of Foreign Affairs
- Rejection of the Constitutional Treaty’s proposed division of powers between member states and Community institutions

A fairly consistent concept and vision of EU integration can be inferred from Poland’s position, which is based on the motto of “a Europe of nations” and is directed against “the forced creation of a European nation”. Consistent with this approach one can imagine the Polish government desiring a loosely integrated Europe, which is limited to economic issues but without a Community-based approach to social, political or moral issues. To paraphrase Polish politicians, they do not wish to build Europe “by force”. Since Europe’s

societies and nations are different, it makes no sense to lead them to a common denominator.

This is the viewpoint on which Poland's approach to the Constitutional Treaty is based. The Treaty is superfluous for Europe as it contains nothing new regarding economic issues and attempts to deepen integration in areas where integration is not required (for example, foreign policy). Despite this viewpoint, Poland's agreement to eventually adopt the new

treaty is based on two assumptions. Firstly, since other EU member states are supportive of it, there should be agreement on at least *some* of the reforms. Secondly, care should be taken that the new treaty, which brings little good, should also do as little harm as possible to the future construction of the EU (for example, the new voting system). Adding references to integration on areas important to Poland, such as energy security, would be seen as added value.

## Is the Government's Approach to European Integration Justified?

The vision of Europe outlined above, with its sceptical approach to treaty reform, leads to certain questions and conclusions. Firstly, is this – delicately speaking – cautious approach to a united Europe justified? Secondly, does it reflect Poland's national interests? Thirdly, it seems that certain inconsistencies can be detected in Poland's political leaders' approach. Fourthly, what are the possible alternative approaches to integration? Finally, can these different approaches be reconciled sufficiently to secure agreement from Poland's various political circles, at least on a position at the Intergovernmental Conference? If so, how can this be achieved?

Many Polish political commentators as well as the opposition criticise the government and President for their inept European policy. Their criticism focuses on two areas: the direction of European policy and the way it is executed. Leaving the question of (un)professional diplomacy aside, one wonders at the differing views held by the political parties (ruling coalition and its opposition) on European integration. The government supporters almost accuse the opposition of betraying national interests. The centre-left parties side with the Constitutional Treaty primarily because the document was signed by the left-wing Prime Minister Marek Belka. The largest opposition party, the Civic Platform, presents a more complex approach. On the one hand, it supports a deeper integration. On the other hand, it

seconds the government on the square root formula.

The deep-seated argument between the "pro-European" camp and the government stems from differing views of what constitutes national interest and what Poland is and should be. The Law and Justice party and its coalition partners, Jarosław Kaczyński's government and President Lech Kaczyński, seem to believe that Poland's national interests are defined by the classic view of a nation's power. A strong Poland is a fully independent and wealthy state, with a powerful army and an unwaveringly and indivisibly sovereign civil service. Countries such as this follow the motto of "nothing about us without us" in their foreign policy.

There is nothing negative in such a definition of a country and its foreign policy. Furthermore, it is certain that no social or political movement is against the "building of a strong Poland". However, one may doubt whether the way in which the Polish government sets about achieving this aim is the most appropriate. It is easier to secure national interests when one has correctly identified the surrounding context. The theory of "undivided sovereignty" has long since ceased to exist; European integration is almost completely based on the principles of divided and delegated sovereignty. Furthermore, an analysis of the Polish government's positions on European integration issues, especially those related to the Constitutional Treaty, leads one to assume that

the Polish government *does not understand* the European Union. It is worth mentioning three *non sequiturs* at this point.

The first relates to the EU's Common Foreign and Security Policy (CFSP). President Lech Kaczyński has repeatedly made sceptical remarks on this subject, whereas Poland has been the main beneficiary of the current form of this policy. To begin with, some elements of the CFSP helped to achieve a democratic breakthrough and avoid bloodshed in 2004 in Ukraine. All Polish politicians and commentators agree that it is in Poland's interests to foster closer ties between Kiev and the EU. Later, the efforts of all EU states and institutions resulted in drafting a pan-European approach to aspects of Russia's behaviour, which is in line with Poland's interests:

- Success in transferring the bilateral trade conflict to the EU level

- Success in making EU partners aware of Russia's intentions of breaking down European unity and applying double standards towards new member states

- Success in creating awareness of the importance of energy security among EU states

Although the meat dispute has not yet been finally resolved, the situation clearly illustrates the importance of "European unity". At those times when unity can be achieved, an unassailable power is formed. This would imply that Poland should support a common foreign and security policy. Meanwhile, Poland's President has made several sceptical remarks on this policy. This confusion resulted in a general lack of understanding of the necessity for a European army among EU states. Open support for this solution would mean that Poland would back a strong common foreign policy. In light of the President's earlier remarks, the European army initiative created confusion. The lack of follow-up on this issue by Polish diplomats leads one to the conclusion that remarks concerning a "European army" made by Poland's politicians in autumn 2006 were at least hasty, and could well have been a hoax.

The second *non sequitur* concerns the schedule of the treaty reform. On the one hand,

Poland does not desire the new treaty to come into effect too quickly. On the other, however, it backs the idea of separating the discussions on the treaty from those related to the budgetary review, which is scheduled to commence in 2009. Linking these two issues could prove very harmful to Poland. If negotiations on the new treaty start to coincide with the budgetary debate, other states will use arguments which link these two processes (e.g. "the Constitution in exchange for agricultural policy"). Forcing the separation of these issues could result in Warsaw's use of its veto right on the one hand, and unpleasant accusations of Poland's hindering the progress of negotiations on the other. The use of the veto in the EU is often described as an "atomic bomb". Therefore, if it is frequently used, it could lead to unforeseen and far-reaching negative consequences for Poland.

To avoid confrontation, Poland should appreciate the importance of reforming the Treaty as quickly as possible. Politicians are required to foresee several steps ahead in the process. Therefore, both the Polish people and EU partners are entitled to expect Polish politicians to anticipate future events, and also a resultant increase the predictability of, and rationale behind, decisions which will be made.

The third *non sequitur* relates to the approach taken by Poland's rulers to the treaty's preamble. On the one hand, Poland's leaders believe that common European values do exist. These are primarily, although not exclusively, Christian values. This results in Poland's support for the inclusion of a reference to these values in the treaty's preamble. On the other hand, the Polish government believes that integration should be limited to economic issues and those related to the defence of member states' interests. The area of ethics and morals should remain an exclusively national issue. If this line were to be followed, the government should require the deletion of the entire preamble instead of expanding it with additional remarks.

## A Different View of European Integration

Many commentators and opposition parties have a completely different view of European integration. They believe that only when Poland is deeply rooted in European structures it can make full use of membership opportunities. Avaricious consumption of EU funds while simultaneously arguing against the deepening of integration is not a credible approach. Similarly unconvincing is Poland's insistence on solidarity among EU member states on issues related to Poland's interests, while remaining silent on matters concerning other countries (an example here could be the conflict between Denmark and Islamic fundamentalists following the publication of caricatures of Mohammed – Poland's Foreign Minister was the only MFA to apologise to Muslims).

The opposition's positive and open approach to Europe contrasts with the suspicion and scepticism of the ruling coalition. The Polish people more often support the opposition's views than those of the government. Studies carried out by both national research institutes (CBOS, IPA) and the Eurobarometer indicate that Poland is one of the nations most in favour of European integration. The Poles favour a different EU to that envisioned by the

government. They desire a strong, united, deeply integrated EU, with a new treaty and a foreign minister. What is more, they place more faith in EU institutions than in national ones. Poles appreciate the opportunities to develop that the EU affords them. One can risk the hypothesis that Poles ascribe the country's recent economic successes more to EU membership than to their government's work.

This approach signifies an amiable attitude towards integration. In line with this belief, deeper integration does not imply a limitation of Poland's sovereignty. Part of this sovereignty is transferred to a supranational level, which Poland can influence. It is commonly held that it should be important for developing countries with liberal economic policies to support the extension of the EU mandate to new areas. These should include policies relating to energy, foreign affairs, climate change, trade, migration and other issues. Powerful EU institutions are also in Poland's interests. A more deeply integrated EU would mean a larger budget, of which Poland would shortly become the main beneficiary. In the same vein, looser integration could lead to more limited policies and less funding.

## Towards a Coherent Approach to the Future Treaty – Recommendations

If EU member states can agree on the issue of the new treaty by autumn 2009, there should be no issues with its ratification in Poland. The government and the Law and Justice party will support the document that they have negotiated. The pro-European parties (centre-left and the Civic Platform) also will vote in favour. The only opposition can come from the League of Polish Families and possibly the Self-defence party. However, before this happens, it is important to consider what the conservative Polish government could do to simultaneously defend its concept of the "building of a strong Poland" abroad and avoid the accusation that

Poland was responsible for the potential failure of the treaty negotiations.

1. The Polish government cannot allow a situation in which it would be forced to veto the new treaty. It should aim to build confidence and convince society to agree with its arguments while remaining open to those of others. Neither the right of veto nor its threat should be used by Poland. Blocking the new document could result in the country being sidelined. It is highly possible that a new treaty veto by a non-Eurozone country will result in the accelerated integration of a smaller group of countries, without the vetoing state. This would

- be at odds with the concept of national interest held both by the government (“nothing about us without us”) and the opposition (“being at the heart of integration”). Speaking pragmatically, a veto cannot be exercised by a country not at the heart of integration, since it does not have this right.
2. The square root system is likely to be a favourable solution for Poland, but it may prove impossible to include in the treaty. To a large extent, this is due to Poland’s persuasive power being limited by its public reputation as the “braking force” as well as a governmental policy equally opaque abroad as it is to some groups at home. A rejection of the double majority voting system and a proposal to switch to the square root system should therefore be an entry point to further talks.
  3. The Polish government should amend its approach to the new treaty’s preamble in order to appear more coherent. Supporting the deletion of the entire preamble, backing the removal of the word “constitution” from the document’s title; and maintaining the stance that the new document will be a revision treaty (as opposed to a replacement for earlier documents) will cause the document to lose its political weight, which would be in line with the concept of “being against the forced creation of a European nation”.
  4. Clauses on energy solidarity among member states and the appropriate definition of the EU’s absorption capacity to allow for Ukraine’s accession are key to deepening integration in areas important to Poland. Wider EU acceptance of these demands could be possible if, for example, Poland accepts the current voting system.
  5. During treaty negotiations, the government should maintain a flexible approach to the issue of widening EU decision-making authority by a qualified majority. In the case that this proposal gains widespread support among other EU member states, Poland should not use its veto. Careful thought should be given to the question of where grounds can be given (for example, voting on policing issues), and where compromise should be sought (for example, the use of the so-called “supermajority”). Transition periods and similar methods can also be applied. A similar approach should be taken during talks related to the increase of national parliaments’ influence on the EU legislative process and the division of powers between member states and EU institutions.
  6. The appointment of a EU Minister of Foreign Affairs remains a divisive issue in Polish political circles. It may help to more precisely delineate the responsibility of the minister and the EU on the one hand, and that of member states on the other. Explaining that the minister’s role would not be a *replacement* of member states’ foreign policies, but rather their *complement* could be valuable in gaining wider support.

**Piotr Maciej Kaczyński** is an analyst and researcher in the European Program of the Institute of Public Affairs, Warsaw, Poland. His research interests are, firstly, the political integration of the EU, which includes debates and the fate of the Constitutional Treaty and whatever is left of it after the June 2007 EU summit. The second field of specialization is the foreign and external policy of the EU and its member countries, which includes EU-US ties, EU-Russia relations, the European Neighborhood Policy, the Barcelona Process as well as the EU-Latin American relations. He has recently co-authored *Assisting Negotiated Transition to Democracy. Lessons from Poland 1980-1999* (2006) and co-edited *Bridges across the Atlantic? Attitudes of Poles, Czechs and Slovaks towards the United States* (2005).

### *Analyses & Opinions* No 76, June 2007

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Editorial team:  
Dr Jacek Kucharczyk  
Jarosław Ćwiek-Karpowicz, e-mail: jarek.cwiek@isp.org.pl

Address: 5 Szpitalna St., # 22, 00-031 Warsaw, Poland  
e-mail: isp@isp.org.pl; www.isp.org.pl