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Constitution for Europe – political attempts to overcome a stalemate situation

Michał Czaplicki

Constitution for Europe – political attempts to overcome a stalemate situation

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- *Prompt ratification of the Treaty establishing a Constitution for Europe lies in Poland's interest. It will enable a focus on problems crucial for the Union: preparation of the budget for 2007-2013, common agriculture policy reform, combating terrorism and reduction of disparities in development of individual Member States. It is possible, since there is a vast field for compromise on the system of distribution of votes. Perception of the problem only from the perspective of the Constitutional system versus the Nice system is detrimental to Poland's interest.*
- *Poland should launch an initiative that is not limited to the system of the vote weighing. The Polish Government should advocate 'European package deal' – a package of postulates advantageous to both Poland and the whole Union. The package under discussion could include among others: maintenance of the payments into the EU budget at the level of 1.27% of GDP, strengthening of the European Commission, increase in the expenses on regional policy, installation of the Agency for Border Protection in Poland and determination of the schedule of Schengen area extension.*
- *Discussion about the whole package of European issues as well as changes perceived as positive by both Poland and the whole Europe would facilitate the approval of the Convention's Draft of Treaty establishing a Constitution by Polish society. The field for negotiation will become vaster and the consent to accept the Constitution more likely.*

It lies in Poland's interest to accept the Treaty establishing a Constitution for Europe. The document under discussion, despite a few controversial provisions, is a fine document and its entrance into force will be beneficial for both European integration and our country. The most significant problem for Poland is posed by the vote weighting in the EU Council known as QMV (Qualified Majority Voting). This issue however, should not

be perceived only from the 'either-or' perspective: the Nice system versus the system advocated by the Convention. The field for arriving at a compromise is much vaster. These negotiation should also not be perceived as gained-lost (if Polish negotiators win, French and German ones will lose, or vice versa). At this moment the situation can be described as lost-lost since neither party has achieved expected results.

It is obvious, that the Union without a Constitution can still exist, however the lack of such a significant document may substantially impede the process of integration and will leave its negative imprint in the years to come. Lack of a Constitution will be unfavourable for Poland too. The negative image of our country being a 'Euro-stopping' (even tougher than Great Britain) renders work of Polish representatives in various EU groups more difficult: both in the Council as such, and in the Commission, the European Parliament and delegated institutions. Such a situation will hinder creation of any coalition advocating European provisions beneficial to Poland. The EU is a school of compromises. Thus, if Poland

is unwilling to co-operate in such an important field as creation of a Constitution, why should other countries show in the future understanding towards Poland's attitudes in other matters?

Lack of a Constitution will imply that the structure of the Union will be complex, and its activities less successful. For such a country as Poland, which needs a powerful Union with an efficiently functioning Commission, such news is bad news. Europe already in the 1970' underwent a period of 'Euro-forgetfulness' and it can be clearly stated that this period was not advantageous for its less affluent Members, and Poland will be such a member still for many years to come.

Polish public opinion for approval of Constitution

The Public opinion in Poland understands, that the Treaty establishing a Constitution has not been written against Poland, but it is a document facilitating the functioning of our country in the European Union. According to Eurobarometer surveys 65% of Poles stated that lack of a Constitution might lead to a paralysis of the EU.

After the failure of the Brussel Summit, a field for compromise on the Constitution of the European

Union commenced to open – Polish society on the one hand positively graded Polish negotiators, on the other however, considered it necessary to find some solution to this stalemate situation.

According to the survey conducted in January 2004 by Eurobarometer, as many as 72% of Poles are in favour of acceptance of the Constitution. The results are by 10% higher than before the intergovernmental summit.

Politicians softens the position

The victory of socialists in the Parliamentary elections in Spain questions Polish-Spanish coalition on the system of vote distribution. These days representatives of SLD (Alliance of Democratic Left) have been also announcing their willingness to accept the system of double majority. Some modification

of Poland's position is suggested. One can hear voices that Poland should launch an offensive and start advocating constructive solutions. Even commentators, who supported Poland's position during the intergovernmental Summit, now state that it is time to 'leave the Nice'.

Compromise must be sought

There are slender chances that the standpoint presented by Poland during the intergovernmental Summit and system of vote distribution decided on in Nice will be supported by the remaining twenty three countries of the enlarged Union, especially Germany and France. Our position is supported neither by the countries of the Visegrad Group nor the Baltic States. Poland has failed to convince any country losing in case of alteration of the system. If Poles reject the sheer thought of a compromise, this will imply an impediment of works on the Treaty

establishing a Constitution and in consequence will result in rejection of this document. Thus seeking a compromise is a must.

Underneath, some possible scenarios of solving the problem of vote weighting system are presented. The merits and drawbacks of respective scenarios are included. These scenarios can be divided into two categories: compromise based on the Treaty of Nice and a compromise based on the Convention formula. Each of these basic models may of course be a subject to further modifications.

First scenario: compromise on the basis of the Nice Treaty

The option of modification of the Nice system is worth considering. It is an undeniable fact that Germany after the unification has a population by 20 million people

larger than France, Great Britain or Italy. Thus, it would be understandable to grant them an adequate parity of votes that would reflect this difference. In such a case the unwritten rule dating back to

de Gaulle and Adenauer's times and providing that France and Germany have an equal number of votes in the EU Council would be rejected. Changes would also apply to other countries. The Nice system has already been changed – the number of seats in the European Parliament for the Czech Republic and Hungary has been increased. One may also consider changing the proportions of the blocking minority and the number of votes needed to pass a given law.

One of the most interesting suggestions was following the above ideas was put forward by Polish scientists from the Jagiellonian University – Wojciech Słomczyński and Karol Życzkowski. According to their suggestion the number of votes in the Council for Germany should be increased to thirty three whereas the number of votes at France, Great Britain and Italy disposal should be decreased by one respectively. The number of votes in case of Poland and Spain should equal twenty three.

It seems that the option of modification of the Nice system would be easily accepted by our society, and Polish authorities could announce victory. The advantages of the presented solution include also the

fact that even in case of far-reaching modifications of the Nice system the situation when there is a considerable difference in the number of votes granted to the largest and the smallest countries of the EU, as it is in Convention's draft, will be avoided. Moreover, Poland would still be included into the group of the six states enjoying the greatest number of votes in the Council.

From the European point of view, observing the historical evolution of the voting system in the Council, it would be acceptable. Member States for decades have been used to parity of votes. On the other hand however, the maintenance of the vote weightings system will imply a continuation of unclear and complex laws.

Moreover, from the present European policy perspective, especially from France's and Germany's standpoints, as well as from the attitude of EU Member States towards the accomplishments of the Convention and the new vote they advocate, the likelihood of winning full support for this option is highly unlikely.

Second scenario: a compromise on the basis of the Convention's records

From the sheer legal point of view, the acceptance of the European Convention's draft without any modifications would be the simplest solution. If Warsaw and Madrid agree to accept the vote weighting system suggested by the Convention, the major impediment to approval of the Treaty establishing a Constitution for Europe

will be removed. In such a situation there will be a real likelihood of ratifying the Treaty still before 1st May 2004. It could take place on a special meeting of the European Council, spring this year.

Politically, however, it would pose a great deal of difficulties. From the Polish standpoint on European issues it would be a very unfortunate solution,

since it would present Poland as a partner having a very changeable attitude – a country stating firmly that ‘either Nice or death’ for the first six months, threatening to veto the Constitution and significantly contributing to the failure of the Brussels Summit that after two months softens and accepts all suggested conditions without any reservations.

This solution is even less acceptable when it is considered from the point of view of Polish internal policy. All main parties support the Nice system, Sejm has passed a resolution *de facto* calling for defence of the Nice. If one adds to the present situation such factors as: the Government’s problems with winning citizens’ support and maintaining majority in the Sejm, then the introduction of this solution seems unlikely from the Polish point of view.

However, one should also bear it in mind, that draft advocated by the Convention is subject to modifications. If twenty three States of the enlarged EU are of the opinion that the system of vote distribution suggested by the Convention is a good one, then it is worth considering. One should not however, treat this system as an unalterable unity since there are numerous possibilities of changing the suggestion with simultaneous maintenance of double majority system as a voting philosophy in the Council.

The first possible alteration is the increase in the population threshold needed to pass a given act. The threshold of 65% suggested by the Convention can be increased by two, four, six or even ten per cent points. An increase in the threshold will mean firstly that Poland’s position as a country representing 8% of EU population will increase considerably. Secondly, the weight of votes of new Member States (as a whole) will be on the increase. It is obvious

that the weight of the largest EU States, including Germany (a country Polish politicians and media love comparing to) will also grow in strength.

The second option is an increase in the number of countries required to pass a law. The Convention advocates in this field simple majority that equals 50%. It can be raised to 55% or 60%. In such a case all the Member States gain importance – all of them to the same extent since each country has one vote. Thus this solution is not exceptionally advantageous to Poland.

This is the direction the modification of double majority system suggested recently by the German government for. This modification assumes increase the threshold of countries to 55% with simultaneous decrease in the population threshold also to 55%. It is an obvious concession of Germany that will lose the most if the change is accepted.

During modification of the double-majority system it is possible to include into the new system an exclusion clause that could be a transposition of provisions of Luxemburg Compromise or Ioannina Compromise. It would enable Poland to prevent decisions crucial to our country’s interests. However, the increase in the thresholds and exclusion clauses are not favourable from the point of view of European integration. This implies decrease in the effectiveness of the new system. It renders the system similar to the system used at present (the Nice system) and copies its drawbacks.

From the point of view of majority of EU Member States, the modified system of double majority would be acceptable. This solution was supposed to be put forward as a way out of a stalemate situation during the summit in Brussels, however, in reality negotiations on the distribution of votes did not go that far.

From Poland's point of view, the system of double majority will not be easily acceptable. Groups that strongly oppose Draft Constitution, especially in the

anti-European part, will surely not hesitate to call it 'national treason'. Everything however depends on the attitude of pro-European opposition and media.

Third scenario, the best one: European Package

One should not stick to stiff division: either Nice or Constitution. The negotiation field is vaster and it lies in Poland's interest to get to know and analyse as many various options as possible.

The vote distribution issue cannot be analysed on its own separately from other problems. At present it is clearly seen that a number of issues, one year ago considered as fixed, are being changed. Countries one by one decide to close their labour markets for workers from the new Member States; the reform of stability pact is being debated; the implementation of the Lisbon Agenda is threatened.

Thus, it is a must to rearrange Poland's priorities. A vaster new deal must be negotiated, where distribution of votes will be only one of the elements. Government's package including Poland's most important demands should be put forward. Such a package should cover:

- Maintenance of the payments into the EU budget on the present level (1.27% GDP). Such a solution entails support of the Commission in the conflict with the countries paying the biggest amounts into the budget of the EU. This also entails bigger EU budget for the years 2007-2013 from which Poland, as the largest beneficiary, may profit a lot.
- Strengthening of the European Commission. Poland should support strong and smoothly operating European Commission since this is the institution that guards the Treaties. Strong Commission means a better-governed Union which is a sine qua non requirement for our success in the EU.
- Increase in expenditures on regional policy within the framework of EU budget in the years 2007-2013. Supporting the development of regions, especially those included into the first objective, will be one of the most significant ways of development of poorer regions of our country.
- Establishment of the Agency for Border Protection in Poland. It is not only a prestige issue (it would be the only Agency with headquarters in the new Member States) but it would also strengthen Poland's image as a pro-integration country and would enable influence on EU policy covered by the third pillar.
- Determination of priorities concerning security policy. It is a priority not only for Poland but also for other countries which have good relations with the USA and fear that security policy of the EU may be competitive to NATO.
- Change of the Lisbon Agenda – its adjustment not only to the needs of the present 15 Member

States but also to the needs of the new 10 Member States whose economic structure entirely differs, and other stimuli are able to force them into accelerated development and increase in effectiveness.

- Determination of the schedule of new Member States', especially Poland's, inclusion into the Schengen area. Poland's joining the Schengen area would be a tangible proof of our country's membership in the EU and ability to benefit from this. At the same time it would be a good stimulus for our economy.

Only on the basis of the aforementioned, positive for Poland changes in the European Union, consent to accept the provisions put forward by the Convention makes sense and could be accepted by the society. Only then will the negotiation field become vaster, and consent to adopt the Constitution more likely. It does not entitle of course that Poland should make concessions only after its all requirements are met since this would lead negotiations to a dead end.

It lies in Poland's interest to make, as soon as possible, a decision on the shape of further works on the text of the Constitution. As long as the Treaty is suspended in a political vacuum, Poland is perceived by the Member States as a destabiliser of European integration. Prolongation of the debate on the Treaty establishing a Constitution for Europe is also disadvantageous from the perspective of Poland's internal policy. Year 2005 is a year when both parliamentary and president elections will be held in Poland, which means that any constitutional debate will fall into line with current electoral interests. This, in turn means radicalisation of attitudes towards the Constitution and will not encourage compromise. Every party will try to present itself as a defender

of national interests and leaving aside the attitude 'either Nice or death' will be highly unlikely next year.

After the failure of the Brussels summit the debate in Poland will have to assume a new character. Current political interests and defence of the Nice system should be left a bit aside and a positive offensive should be started. New, constructive solutions should be put forward that will be acceptable to both Polish public opinion and our European partners.

We should be aware of the fact that Polish struggle about votes in the Council is not, and at least should not be, an objective in itself but a means to achieve some other objectives. And the objectives are Poland's appropriate position in the structures of the EU, long-term economic and civilization development of our country and the safety of the State. However, it is the objective that can be reached via various means and the defence of 27 votes in the Council may not necessarily be the best one.

MICHAŁ CZAPLICKI works in the Institute of Public Affairs. He deals with the issues of the future of the European Union. During the works of the Convention, as a member of staff of the Chancellery of the Senate, took part in its meetings.

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Editor: Mateusz Falkowski
Layout design: Andrzej Jasiocha
e-mail: jasio70@interia.pl

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