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***The ratification process of the EU Constitution in Poland: situation and perspective
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Situation

Poland is one of the ten EU's members which decided to hold a referendum for ratifying the Constitution. The largest new EU member was among the most vocal critics of the charter when it was negotiated by EU countries in 2003 because it reduced its voting power and the Miller government was also one of the governments that blocked in 2003 the last stage of the IGC because strong reservations were held by both government and opposition with regard to the Constitution. The referendum option to ratify the Constitution was used by the Polish government to exercise pressure during the negotiation in order to achieve its goals. Polish Prime Minister Leszek Miller said during negotiations in 2003 that Poland would hold a referendum on the Constitution if changes that Poland had proposed were not included in the final version.¹

More than one year after accession the most pessimistic scenarios: massive bankruptcies among Polish small- and medium-sized businesses, products from other EU countries flooding the market, foreigners buying properties in Poland and a mass emigration of Polish workers in search of jobs elsewhere in the union, did not happen, said a government report published in April 2005. On the contrary the eurosceptic atmosphere among several segmentations of the population changed to a certain optimism. "The

¹ PM Leszek Miller says he might call a referendum on the EU constitution if changes Poland proposed are not accepted, BBC news, 06.10.2003.

largest growth in support for accession was noted in farming and food production sectors where it went up from 20 per cent to over 70 per cent in just a few months," said the report, underlining that "the incomes of people making livings out of farming or trade in food products went up"². Poland has also experienced a decrease of 7.5% in the unemployment rate with respect to 2002, however figures in 2005 are still very high 18%. During the first semester of 2005 economic growth has slowed, a tendency which was reflected throughout all new member states, with the exception of Estonia and where Poland showed one of the greatest deceleration of GDP growth and as a recently published Worldbank report underlined, Poland has come from an enlargement euphoria to an enlargement hangover.³

Table I Growth rate of GDP at constant prices (1995) between 2002 – 2005 - percentage change on previous year

	2002	2003	2004	2005
Growth rate of GDP in %	1,4	3,8	5,8	4,4 ^(f)

Source: Eurostat - (f) - Forecast

Poland's Constitution allows holding referendums on subjects of particular importance for the state. A nationwide referendum can be convoked by the House of Representatives (Sejm) with an absolute majority of votes in the presence of at least half of the statutory number of Deputies, or by the President of the Republic with the consensus of at least 50 per cent of the serving members of the Senate. The validity of the referendum has to be determined by the Polish Supreme Court. (Polish Constitution Art. 125 /1-6) Under the Polish constitution the result of a nationwide referendum is binding, whenever more than half of the number of those having the right to vote has participated in it. (Polish Constitution Art. 125 /3)

This last requisite, the 50% turnout, represents a strong obstacle for the Polish referendum. As we could see, the Spanish referendum on 20 February 2005 registered a turnout of 42%. The referendum on the EU accession of Poland was approved by a popular referendum in 2003 with a participation of 59%. Moreover, Polish turnout for

² EU membership 'clearly positive' for Poland: anniversary report, EUbusiness.com, 27,04.2005.

³ Worldbank, EU8 Quarterly Economic report, July 2005.

<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0,,contentMDK:20268176~pagePK:146736~piPK:146830~theSitePK:258599,00.html>

the European elections in June 2004 was with 21 per cent, the second lowest in the entire EU.

Nevertheless Poland was one of those countries where a positive outcome was more likely. The main political parties were split on the issue and the referendum theme became the subject of a bitter domestic dispute, in which the governing Social Democrats argued with opposition parties over when and how to hold the referendum. The governing leftwing coalition, Democratic Left Alliance (SLD) which is in favour of the EU constitution, wanted a referendum to be held at the same time as the first round in presidential elections in September 2005, so as to incentive a high turn-out, but it would have also allowed the Social Democrats to distract the electorate from several domestic scandals that have left the government's approval among the population at around 10%.

The right-wing Justice and Law party, the ultra-conservative Catholic-nationalist League of Polish Families, which both campaigned in favour of a referendum in 2003, and the agrarian-populist Self-Defence party openly oppose the Constitution. In contrast, the leading opposition party, the centre-right Civic Platform, which was against holding a referendum in 2003, adopted a more neutral position during the campaign in 2005.

These opposition parties wanted the plebiscite to be held in 2006, either separately or in combination with local elections. A late date, according to their aspirations, would have allowed Poland to see what results arise from referenda in other EU member states with the hope that the Constitution would fail elsewhere first.

An opinion poll already published on 12 January 2005 on voter intention regarding the national elections found, that the Civic Platform would obtain 25 per cent of the votes and that the governing Social Democrats, with just 11 per cent of voters, will be far away from their former results. The poll put the Civic Platform ahead of centre-right Law and Justice (PiS) and the populist Samoobrona (Self-defence) party, each of which was credited with scores of 14 per cent. The Civic Platform and Law and Justice are likely to form the next government.

Despite the disagreement between the political parties, the Polish public opinion towards EU membership has improved steadily since Poland joined the EU in May 2004. The noticeable impact of increased EU funds since accession, the role that Poland played as a representative of the EU in the Ukrainian crisis (Klotzle 2005) and the

decision to establish the European Agency for Border Protection in Poland let popular support for EU increase. In this sense an already mentioned government report said the first year of Polish membership in EU was 'clearly positive' for the country, which has notably benefited from a better international reputation and stronger economy. In this sense without the 50% participation obstacle, the referendum was certainly to be approved overwhelmingly.

Survey	Date of Fieldwork	Question	Result
Flash Eurobarometer 159	15.01 – 17.01.2004	“The European Union must adopt a Constitution”	72% support 22% rejection
Flash Eurobarometer 159/2	21.06 – 25.06.2004	“The European Union must adopt a Constitution”	71% support 18% rejection
Eurobarometer Special Survey 214 “European Constitution”	03.11 – 21.11.2004	“According to what you know, would you say that you are in favour of or opposed to the draft European Constitution?”	43% support 16% rejection
Standard Eurobarometer 63	May – June 2005	“Based on the question, are you for or against a constitution for the European Union?”	61% support 17% rejection
CBOS Institute	November 2004		73% support 11% rejection
CBOS Institute	February 2005		64% support 7% rejection 29% undecided
CBOS Institute	April 2005		56% support 15% rejection 25% undecided
PBS institution	May 2005		54% support 19% rejection
PBS institution	June 2005		40% support 35% rejection

Source: the author

In the Flash Eurobarometer 159/2: The Future European Constitution, of July 2004, 71% of Poles said they are in favour of a European Constitution, while 22% rejected this project. According to the Eurobarometer Special Survey carried out in November 2004, 43 per cent of Poles agreed and 16 per cent answered negatively to the question: “According to what you know, would you say that you are in favour of or opposed to the draft European Constitution?”, while 41 per cent were still undecided, 65 per cent of Poles stated that the lack of a constitution might lead to a paralysis of the EU. Different polls carried out by the CBOS Institute in November 2004, February and April 2005 indicated, that supporters of the Constitution are still the majority but in April 2005 17%

less Poles were in favour of ratifying the European Union constitutional treaty than in November 2004. (see table)

While in February 2005 66 per cent of interviewed Poles said they will intend to vote in a referendum on the Constitution, the number who said they would take part in a referendum fell to 58 per cent in April 2005.

Nevertheless academic annalists as Keohane stipulated the outcome of the Polish referendum in February 2005 with 50:50 as uncertain, his forecast changed in April to 55:45, which means he considered on this time a favourable outcome of the Polish referendum. (Keohane, 2005a; b)

After the no vote in France and the Netherlands public support for the Constitution has fallen to 40% as polls indicated.

Shortly after the EU summit in June the Polish government was divided on how to continue with the ratification process. To capture the positive European atmosphere in Poland the ruling SLD party had encouraged people to focus on the EU constitution and had centred the focus of its campaign, which has already started on 17 April, on European themes. Before voters in the two founder-member states of the EU rejected the Constitution it was, according to Czesnik from the Polish Academy of Science, considered politically incorrect in Poland to reject the treaty.⁴ But since the Constitution was seen as part of the European integration with all its benefits, support was granted after the no vote of two founder member the constitution was seen as separated, sa not directly linked to the integration process.

Prime Minister Marek Belka defended that Poland should push ahead with plans to ratify the constitution treaty, but via a parliamentary vote and not by referendum. Nevertheless Poland's President Aleksander Kwasniewski confirmed his willingness to hold a referendum on 9 October simultaneously with the first round of presidential elections. Foreign Minister Adam Rotfeld urged to hold the referendum as planned in order to give the Union a positive impulse and to assume a leading role among the member states, he said "I believe that a referendum will allow Poland to break into the EU core of founder-members, which are showing a tendency to close ranks as a means

⁴ Poland kicks EU constitution into uncertain future. EUobserver.com, 06.07.2005.

to overcome their current problems.”⁵ Since, according to Slawomir Debski, chief analyst at the Polish Institute for International Affairs, a referendum in Poland had still had a real chance of resulting in victory for the 'yes' camp because for Poles a referendum would be a plebiscite for or against European integration.

In this sense Warsaw took already in June the initiative to and invited the foreign ministers of France, Germany, along with Britain's minister for European affairs, to discuss the European Union's crisis.⁶

However (after a U-turn on the position on the issue) the Prime Minister and the President announced on 21 June after a meeting with the President of the Parliament, Włodzimierz Cimoszewicz, that the referendum for adopting the European Constitution will “... take place in Poland, but its date is not yet clear. A referendum this October is unrealistic.”⁷ They said furthermore the decision will not be taken place this year and its future will depend on the results not only on the outcome of the parliamentary elections, but also on the outcome of the presidential elections, in this sense a possible referendum could be held in 8-12 months.

The governing leftwing coalition, Democratic Left Alliance (SLD), defended a referendum to be held at the same time as the first round in presidential elections in October, so as to incentive a high turn-out.

The opposition parties, responded to the results of the French and Dutch referenda with measured satisfaction. Lech Kaczyński, leader of the right-wing Justice and Law party and current leader in public opinion polls for this year's presidential elections, stated, “The constitution that was rejected was harmful for Poland, because it went too far in undermining the sovereignty of the Polish state.” Jacek Saryusz-Wolski, MEP from the leading opposition party the Civic Platform (PO), added: “There's no reason to be sad. It's a bad treaty – bureaucratic and far removed from the concerns of everyday citizens.”

The Civic Platform, and the Justice and Law party, maintained they desire to hold the plebiscite in 2006, either separately or in combination with local elections.

On 05.07.2005 the Polish lower house voted to put off a decision on whether to ratify the EU constitution by referendum or parliament, 189 members opted to freeze the

⁵ 'New Europe' must lead EU out of constitutional crisis, new members say, EUbusiness.com, 07.06.2005

⁶ Poland invites Britain, France and Germany for meeting on EU crisis, EUbusiness.com. 21.06.2005

⁷ Poland should vote on EU text, but via parliament, says premier, EUbusiness.com, 20.06.2005.

ratification process against 180 in a narrow vote, with the winning camp mostly made by the Civic Platform and the Law and Justice.

But still before the French and Dutch vote, Poland could have had difficulties to ratify the Constitution for several reasons.

Firstly, we could already see a decrease in the support of Poles to the Constitution and at the same time the intention to participate in a referendum was decreasing too.

Secondly, the dispute between the political parties, where the governing party was losing support among the population, provoked a perceived linkage between the position of the Government, political scandals and the Constitution and polluted the atmosphere.

In this sense the debate on the Constitution was dominated by debates on domestic affairs.

Thirdly, the simultaneously celebration of the national elections and the referendum could also have conducted to a radicalisation of attitudes towards the Constitution and obstruct possible compromises. Nevertheless the neutral position of the main opposition party could soften the discussion in the pre-referendum stage.

Furthermore a strong and well organised “no” campaign could danger the foreseen positive outcome since the pro-European majority could stay at home on the referendum day, while the “no” side could manage to get most of their constituency to the polls.

Perspective

After postponing the ratification process in Poland, national elections are in the focus of international attention, since the results could determine the future of the ratification of the treaty in the largest new member state and may provoke a new Polish policy style within the EU. The referendum was convoked to overcome party struggle since approval by public consult seemed to be sure. However public support decreased after the referenda in the Netherlands and in France.

The favourite in the elections and the potential government coalition between Civic Platform and the Law and Justice party could convoke the plebiscite in 2006 in combination with local elections. But it does not seem very likely that both eurosceptic parties would campaign against the treaty, although they opposed to it during the last months. The Civic Platform had already moderated its position during spring 2005.

Furthermore the public opinion is broadly in favour of the text. However the ratification could be an instrument for the new government in the negotiation on the new financial framework to exercise pressure in order to reach a better outcome.

The great fear that Poland could be the first country rejecting the Constitution did not materialize it and it depends now, taking into account the lessons from the Dutch and French referenda, on how the government will manage the information campaign and on the economic performance in the coming months if the EU optimism comes back among Polish citizens. Latter will be sharply influenced by the date when the Union finds a compromise for the future financial perspectives, since Poland and specially Polish agriculture will be the main affected ones if an agreement is not reached by the end of 2005 or the beginning of 2006.

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