

FUTURE OF THE EUROPEAN UNION – POLISH POINT OF VIEW

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1. The Republic of Poland, a “young” Member State of the European Union, has already made its presence in the Union visible, be it due to its tough stance in negotiations of VAT rates, directive on liberalisation of services or drawing up the budget for the years 2007-2013. Poland as the largest, in terms of population, country in the recent enlargement is sometimes seen as the homeland of the “Polish plumber” who shook the process of ratifying the Treaty establishing a constitution for Europe. Paradoxically, the fear of being flooded by Polish craftsmen won in those countries which so far have not opened their labour markets to citizens of new Member States, while the opposite decision is evaluated unequivocally positively by the UK, Ireland or Sweden.

This prevailing image of Poland in the united Europe is matched by a complex and not fully consistent self-image of Poles in the European Union, and consequently, their expectations as to the direction of its inevitable transformations. As any Member State with a short record, Poland is learning to find community and balance between national and common interests. With the experience of tough accession negotiations and the first, sometimes disillusioning, eighteen months of membership, it formulates its expectations for the Union reform chiefly through the optic of Polish national interests, a contribution to which was the election of Eurosceptics both to the government and for the President in autumn 2005. This does not, however, mean a radical change in Poland’s foreign and European policy. Instead, we can speak of a basic continuation of priorities despite the apparent change in rhetoric and standpoint on matters touching upon values and morals.

Membership of the Union is undoubtedly seen as an act of “historical justice” towards a state which first broke out of the communist system, but above all as an opportunity for economic and, let us not be afraid of this word, civilisational advancement. In external relations membership is an opportunity for emancipation, both vis-à-vis partners from the UE, and, more importantly, vis-à-vis the United States and

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Russia.¹ Especially in foreign policy, the global position of the reformed Union will impact on the fulfilment of these hopes.

One may say very briefly that Poland wants an efficient, solidary, coherent and integrated Union. It would not be good for the Polish *raison d'état* if the Union were only a loose club or a constellation of changing alliances determined by short-term goals and if cooperation were limited to economic matters or to performing tasks on an *ad hoc* basis. A precondition for a solidary Europe, which feels responsible for its individual constituent parts, is a politically coherent Union.² The above priority determines Poland's standpoint in the dispute which divides Member States: should the Union be a political union or only a common economic area, a social Europe or a competitive economic power, a coherent and closely integrated or a broad and diversified association of states. However, one may fear that a Union of 25 Member States, with the prospect of even more members, is doomed to implement what Pierre Manent calls "the English version" of internal links, based on compromise between maintaining national identity and adapting to the globalisation process.³

2. The fact that Polish government gives clear precedence to the Polish *raison d'état* in its expectations towards the Union results not only from the fact that the awareness of pan-european interest is only beginning to build among national elites and that internalising such interest is difficult. Poland's debut in the Union occurred in a period of organisational crisis, marked by return of national egoism of individual states in the formation of the European strategy and in departing from the principle of solidarity. New Member States sometimes faced manifestations of old members' arrogance in respect of the needs and aspirations of new ones. This could be seen in the abovementioned work on the budget perspective for 2007-2013, which failed to achieve the declared priority goal of the Union, that is, increased innovative activity and dynamics of European economy. Similarly, the debate on maintaining VAT rates clearly divided the old and new states. However, new members must remember that signs of solidarity cannot be expected only by one side, since otherwise, as Jan Kulakowski, the chief Polish accession negotiator in the 1990s, put it, "this is no longer solidarity, but alms".⁴ According to this principle, Poland should in reality support expending funds from the Community budget on coherence, structural and regional policy or – in the longer time perspective – on increasing Europe's competitiveness, even at the expense of direct payments for farmers, of which it is an important recipient.

European solidarity crisis is a crisis of the Union as such that culminated in rejection of the Constitution Treaty. As Prof. Bronisław Geremek, MEP and former minister of foreign affairs of Poland, observed, though permitting himself a little exaggeration, "the 2004 enlargement was a process of unification of Europe and this

¹ Jacek Saryusz-Wolski (MEP, Vice-President of the European Parliament), *Zagrajmy w europejskiej pierwszej lidze*, "Gazeta Wyborcza" 11 January 2006.

² Dariusz Rosati, (MEP, former minister of foreign affairs of Poland), *Europa albo śmierć*, comments in the debate held by Stefan Batory Foundation on *Continuity and change in the foreign policy of the Republic of Poland*, text distributed in copies.

³ Pierre Manent, *Frontières culturelles, frontières politiques*, «Commentaire» No. 112 (winter 2005-2006).

⁴ Quoted in: Jacek Pawlicki, *Europejski PiS czy PiS-owska Europa?*, "Gazeta Wyborcza" 10 January 2006.

should be a second founding deed of the EU – which was not the case. Then, it turned out that Europe was already there, but the Europeans were not.”⁵ It would be oversimplifying to attribute the constitutional failure only to the negative perception by persons holding power in France and the Netherlands or, more generally, to insufficient informational preparation of the populations of older Member States for enlargement and it being seen as the first step towards further east- and southward expansion of the Union: accession of Romania, Bulgaria, Turkey, Balkan states and, in a very remote time perspective, Moldova and Ukraine.

The great enlargement came in a period of stagnation in the economic development or many UE members and employment problems, which brought about the onset of a climate of discouragement and frustration. Though the balance sheet of 18-month functioning of a 25-strong Union is positive in many aspects (including trade dynamics, financial markets operation, investment growth, administrative cooperation), especially older states and in particular their populations are unaware of the success and their fears became a factor in today’s problems.

3. The effort aimed at adopting the Constitution for Europe was inspired by the idea of renewing the Union and pushing it onto new, a more ambitious track. Thus breaking the constitutional stalemate in its formal dimension does not automatically solve the problem which Europe is facing. Despite approval of the Constitution Treaty by states inhabited by more than half of EU citizens, the only right way out in a situation when it was vetoed citizens of two important founding states of the Communities was the decision to have some “thinking time” before any further steps.

The above suppositions concerning the reasons for their rejection of the Constitution Treaty make us look for remedies to the crisis in two directions.

Firstly, assuming that the failure of the Constitution Treaty was caused primarily by a “political marketing” error: overestimating the level of public awareness of European unity and the degree of approval for providing the integration project with external framework typical of a state organisation (constitution as the basic law of the state system, the Minister of Foreign Affairs, legal personality, express Treaty principle of primacy of applying the EU legal order), it seems necessary to influence the level of such awareness. This is not a new task and it may be regarded that building the European identity in the “old” Union had significant positive outcome. Its enlargement into the area of “new” Union is the more problematic that many decades of division of the continent into two systems fostered the formation of a negative image of its easternmost part. Realistically, coming to terms with enlargement of the Union may take at least as long as building the community links with Germans after WWII or even longer, if we take into account the discrepancies in standards of living, infrastructure, saturation with technologies, efficiency of public services, etc.

At the same time, despite the display of greater enthusiasm for the constitutional project among new Member States (Poles’ exceptional scepticism towards the Treaty, revealed by public research polls, did not become binding through a referendum, which

⁵ Bronisław Geremek, *The Intrinsic Society of United Europe*, text of a lecture delivered at 2nd Brentano Lecture in Berlin, 3 November 2005.

was intentionally deferred), we cannot ignore the natural resistance to building a supranational identity where national sovereignty was regained relatively recently and the idea of supranational “community” evokes bad associations with the propaganda of former regimes. The cases when interests of states with a longer record are given priority or new members receive patronizing treatment are not arguments to come to like the Union either.

What could prove that Europeans’ expectations towards the Union are taken into account would be holding a truly pan-European debate, covering a possibly broad spectre of social groups, on its future, including the institutional shape. Although with each subsequent treaty the scope of social consultation becomes greater and in the work of the Convention it theoretically played a very important role, however, the feeling that it did not have sufficient influence on the final edition remained dominant. While realising the idealistic character of this proposal, which is difficult to implement, for example due to the highly specialist content and hermetic language of the Treaty, as well as the naturally contradictory expectations concerning the Treaty among different groups and states, one cannot lose sight of the opportunity for “European socialisation” and the educational value of involving EU citizens in the discussion on its future. Although economic difficulties and the related social ones in many countries are not conducive of in-depth reflections about the enlarged Union, overcoming the sense of alienation in relation to major European decisions is the single most important task for the Union to break out of its run of misfortunes.

This purpose should also served by close links between the European political debate and the national one, with which citizens of united Europe traditionally identify themselves more strongly, and also further strengthening of the role of national parliaments in the EU. It would be advisable to implement as soon as possible a “system of early warnings” against violations of the subsidiarity principle provided for in the Constitution Treaty, using a different, even imperfect set of legal instruments (e.g. under an Interinstitutional Agreement).

One sign of democratic deficit in the EU is the perceived lack of representativeness of the European Parliament. Its sources include a somewhat discretionary character of access to political clubs or groups in EP by representatives of national parties. Those alliances are sometimes surprising and exotic, which results from reasons not relating to programmes. In the elections, the electorate should be able to vote consciously for European parties, with unequivocal programmes describing their vision of the common European interest and the plan of achieving it. That would require a change in the formula of elections to EP, then the parties would have to take deeper roots and gain support in the society, but in the long run it would result in more representative character of this body and improved transparency of its decisions.

4. Rejection of the Constitution Treaty was in fact denial to consent for key Member States to become bound by its provisions, therefore it is necessary to analyse in depth its provisions and decide about their future. Europe already knows a precedent where in some states the issue of ratifying a previously rejected treaty was resubmitted for referendum and the treaty came into force having obtained, in the second referendum, a positive result. It seems that the standpoint of the Member States and the European Commission not to use the same path this time is by all means right.

One may, however, consider signature of a more “modest” treaty, implementation of some provisions which are capable of that by means of secondary legislation and *soft law* or, only in respect of the states approving them, using the procedure of enhanced cooperation, or, possibly, certain modifications of the judicial interpretation of the treaties already in force. Each of these methods would inevitably entail giving up definitively certain new ideas from the Treaty. It is out of the question to introduce certain reforms envisaged in the abandoned Constitution Treaty at the stage of concluding subsequent Accession Treaties.

In each case, the first step should be to separate from the Treaty text “added value” in relation to the treaties which are now in force, that is, the new regulations which – theoretically – have been just rejected. These new ideas should be looked for not only in the part III, but also in part I of the Treaty. Although the most important decisions on their future would be taken by IGC, preparatory work should be conducted by the Commission in cooperation with the Court of Justice.

The probable consequence of failure to adopt the Constitution Treaty may be the initiation of a process of deeper differentiation of UE Member States, that is, implementation of the political-science concept of “multi-speed Europe”.⁶ Even now in the EU, there is flexibility in the integration process, manifested in different statuses of Member States in important areas: the Economic and Monetary Union, the Schengen *acquis* or the very concept of enhanced cooperation. Such flexibility fits within the EU framework, so it does not basically threaten the stability of its structures and decision-making mechanisms.⁷ A certain threat to the process of European integration might result from the building by some Member States, those most politically and economically efficient, of “closer cooperation” in the areas which are important for Europe’s future and regardless of the institutions and decision-making mechanism of the current UE. Such “closer cooperation” would not affect the internal market, while important political areas (particularly in the field of security and defence policy), innovative ones and ones affecting the internal order (those beginning to appear within the third pillar) would be implemented outside the Union, which would be gradually reduced to the internal market in its narrow sense with small additions from the area of current second and third pillars.

A presage of such an approach appeared in the draft concerning the institution of *structured cooperation* concerning defence policy, which was submitted by the Convention and finally rejected by IGC (Art. I-40(6) and III-208 of the Convention’s draft). This proposal was dangerous not because a group of states was to “go further” in a given field, but because it assumed complete exclusion of EU institutions from the decision on establishing such cooperation (terms on which it would be established, defining the participating states).⁸ If such practices received approval, important areas of cooperation might develop outside the EU, which would pose a real threat to the

⁶ Marek A. Cichoński, *Porwanie Europy*, Warsaw 2004.

⁷ Jan Barcz, *Aspekty prawne procedury wejścia w życie Traktatu konstytucyjnego i ewentualne konsekwencje prawno-polityczne jego odrzucenia*, opinion for the Institute of Public Affairs, www.isp.org.pl.

⁸ Jan Barcz, *Wspólna Polityka Zagraniczna i Bezpieczeństwa w pracach Konwentu UE*, “Polska w Europie” 2003, No. 2.

process of European integration, the more so that internal market as such will gradually lose its importance as global liberalising processes continue.

5. As we mentioned before, strengthening coherence in the European Union is in Poland's interest, therefore it is particularly regretful that those provisions of the Constitution Treaty which were to ensure development of the Community method through increased flexibility of the decision-making process in EU/EC were abandoned (e.g. the so-called double majority as a method of taking decisions in the Council is good for Poland's long-term interests). Provisions in the field of Common Foreign and Security Policy could create the grounds for strengthening common security and defence, in which Poland has a vital and strategic interest. Strengthening and systematising common regulations in the Area of Freedom, Security and Justice would also be very favourable to a state having a lot to do in this field. Thus it would be desirable to adopt, in the legal form of a treaty (which is inevitable due to the specific nature of these issues) provisions identical or similar to the ones contained in the Constitution Treaty.

The most important challenges for the future of the EU are linked to its economic standing, namely the macroeconomic policy in the euro zone, coordination of EU economic policies and development of a modern economy. The Union should strive, contrary to the ever stronger trend to fetish "refund" of the contributions to the states, to increase the Union budget and then gradually replace Member States' contributions with an European tax.

If one of the reasons – maybe the most important one – for the European solidarity crisis with all its consequences, was the last enlargement, it is the more advisable to be careful about accepting new members, particularly the controversial Turkey. The enlargement trend could be temporarily replaced with developing a special association formula for UE neighbours meeting the political conditions, enabling them to enjoy the common market and development aid. Not only would further enlargement of the Union at its current stage of development be politically difficult, but, first of all, it would threaten its already upset coherence and stability.

It is certain that further development of the EU cannot take place only by reference to an agreement of the elites, by enhancing the functionality of European institutions at the expense of democratisation of the European project. Europe evidently lacks not only an understandable vision shared by all, but even unanimity as to its basic priorities. The ideology of the European integration, which is to be its driving force, includes such values as respect for human rights and their application in public life, security in the face of the threat of terrorism or protection of the European social model.⁹ Sadly, what motivates Europeans the most is the idea of global competition with the United States, and, prospectively, also China or India. The current state of inertia as regards concepts of the future of the Union compels us to end these reflections with the prediction by Pierre Manent, who was already quoted (see note 3), that the future shape of Europe will crystallise under pressure of world powers, being decided upon by all or, which is more probable, only some European states.

⁹ Tomasz Grzegorz Grosse, *Kondycja integracji europejskiej po szczycie UE oraz referendach we Francji i Holandii*, Institute of Public Affairs, "Analizy i Opinie" 2005, No. 39.