



**From the European Convention to Public Discourse:
Debating on Common European Future**

**Istituto Affari Internazionali
in cooperation with
The Trans European Policy States Association**

convention watch

POLAND

1. Evaluation of the work and results of the European Convention

1.1 Overall assessment of the results of the Convention

What is your government's overall assessment of the results of the Convention? How have they been received by the other main political and social actors?

The Polish government has given a generally positive assessment of the results of the Convention. According to the government delegate to the Convention, D. Huebner, the results of the Convention will contribute to simplifying the Union's functioning, which in turn may bring about more efficiency¹. In a speech at the plenary session of the Convention on July 9, 2003, the Minister expressed her conviction that the "European Union which emerges from the draft Treaty will be capable of responding to the future challenges (...) and above all the Convention has shown that the widening and deepening of the European Union can go together".

A similar – broadly positive - assessment of the results of the Convention was presented by the Prime Minister and the Minister of Foreign Affairs in numerous media interviews and conference presentations². Most recently the Council of Ministers considered that the following were the most important achievements of the Convention: the establishment of a legal personality of the Union, the extension of QMV and the co-decision procedure, the increased democratic legitimacy and the strengthening of the role of the Union on the international scene³.

¹ "Przejrzysta Europa" ["Transparent Europe"], interview with Minister D. Huebner, *Trybuna* (daily), 12 July 2003, source: <http://www.trybuna.com.pl/>.

² E.g. Contribution to the Forum "Wspólnie o przyszłości Europy" [*Together about the Future of Europe*], Warsaw, 26 June 2003

³ Position of the Council of Ministers for the IGC on the Treaty establishing the Constitution for Europe; Chancellery of the Prime Minister, 9 September 2003; source: <http://www.kprm.gov.pl/>

On the other hand, on many occasions the government has stressed the need to maintain the institutional arrangements decided in Nice and to include an *Invocatio Dei* or - at least – a reference to the Christian tradition and heritage in the Constitutional Treaty⁴.

These two issues themselves have become the main concern of public debates in Poland after the presentation of the draft Constitution (see answers to questions 2.1, 2.4 and 3.3.3).

The members of the Polish Parliament focused mainly on the issue of the lack of a reference to the Christian heritage in the preamble of the Constitutional Treaty and on the new system of QMV. However, the stance of political parties with regard to the results of the Convention were diversified. While the ruling left Democratic Alliance has supported the government's position, the right-wing parties expressed a very negative judgment arguing that the Convention had tried to "change the rule of the game in the middle of it".

On the other hand, all the parliamentary parties supported a resolution⁵ asking the government to continue its efforts to maintain the institutional package agreed in Nice.

1.2 Convention method

Is there the perception in your country that the Convention has contributed substantially to making the process of constitutional reform of the EU more transparent and democratic? What are considered to be the main positive elements of the Convention method? And those that, on the contrary, have drawn the most widespread criticism?

The debate on the Convention method concentrated on the limited role played by the accession countries within the Convention and the role and performance of the Convention's Praesidium. Within the debate of the Parliamentary European Committee some MPs characterized the Conventions' modus operandi as unclear. The role of the Praesidium was considered excessive and some of its solutions were perceived as not fully democratic, because they did not take into account the contrary views expressed by a substantial number of Convention members. In his appeal to the European Parliament to reject the draft Constitution, the head of Catholic National Movement, Antoni Macierewicz (MP), called the way the draft treaty was adopted as "undemocratic". He declared that, despite the fact that the Convention was supposed to adopt its decisions by consensus, it adopted a treaty that did not enjoy such a consensus, which thus jeopardises democracy and "cannot bring anything good to citizens, nations, states and the whole Europe"⁶.

On the other hand, some more moderate voices stress that only the sometimes rigid position of the Convention's Praesidium enabled reaching consensus on the text of the draft Constitution, while no limits were imposed on discussion of relevant issues⁷.

⁴ Source: reports by Polish Press Agency: <http://euro.pap.com.pl/>; Contributions to the Forum "Wspólnie o przyszłości Europy" [*Together about the Future of Europe*], Warsaw, 26 June 2003 and <http://www.futurum.gov.pl/futurum.nsf/main> (Polish Convention's website)

⁵ Source: Polish Robert Schuman Foundation, <http://www.schuman.org.pl/> and <http://www.pap.com.pl/>, 29 August 2003.

⁶ Source: Polish Press Agency, 4th September 2003, <http://www.pap.com.pl/>.

⁷ Discussion during the Parliamentary European Committee debate; source: <http://www.sejm.gov.pl/>.

1.3 Performance of national representatives

How do you judge the performance of the representative of your government in the Convention? Do you think that he/she played a proactive and dynamic role? What are the Convention issues on which he/she concentrated his/her interventions and proposals? Did your government work actively to adopt common positions or establish a unity of action with other governments? Did the representatives from your country at the Convention take similar stances on the most important issues, or did their different political affiliations and ideological convictions reflect in substantially different positions?

At the beginning, on many occasions (see: previous issue of the Convention Watch) the stance of the Polish representatives to the Convention (both the government representatives and the parliamentary ones) were described and criticised as not very concrete and decisive, which is probably attributable to the will of “not antagonising” other governments in the pre-accession period. However, in the final stage of the Convention, when the Nice institutional arrangements were discussed, the Polish members became more active.

Danuta Hübner, the government’s representative, was among the signatories together with other representatives of Heads of State or Government of several States of the contribution: "A Union Constitution for all. A success for the Convention"⁸. Apart from a number of individual contributions and speeches, the government representative was among the signatories of a number of joint contributions and declarations on key constitutional issues:

- “Reforming the Institutions: Principles and Premises” – CONV 646/03
- “Proposal on Transparency” – CONV 830/03 and CONV 765/03
- “Contribution regarding articles III.59 and III.60 of the draft Constitutional Treaty” – CONV 782/03
- “Every Member State shall have one representative each in the Commission”, submitted by Mr Bonde, CONV 819/03
- “Joint contribution by Peter Glotz, Peter Hein, Danuta Hübner, Ray McSharry, Pierre Moscovici, members of the Convention, on Division of competences” – CONV 88/02

According to one of the Polish parliamentary representatives in the Convention, Senator Genowefa Grabowska, an Alternate Member of the Convention, the contribution of Polish members was substantial, not only in plenary sessions but also in the working groups⁹.

The parliamentary members and their alternates were also signatories of a number of joint documents regarding the key issues under discussion in the Convention. In particular E. Wittbrodt (Convention member) and M. Fogler (alternate member) presented a contribution for the inclusion of a reference to the Christian heritage in the Preamble.

On the other hand, some critical voices on the opposition side blamed the Polish representatives (especially those representing the governing parties) for having failed to

⁸ CONV 766/03

⁹ Interview with Sen. Genowefa Grabowska, Alternate Member of the Convention, source: *Trybuna* daily, <http://www.trybuna.com.pl/>.

address more effectively the issue of the Christian heritage and to defend the Nice institutional arrangements¹⁰.

A discussion also took place on the way of selecting the parliamentary members of the Convention and consequently on their legitimacy¹¹. It focused around the problem of whether they should represent party interests or rather the Polish national interests.

2. National debate and public opinion trends

2.1 Public opinion trends

How have the attitudes of public opinion towards the EU evolved in your country in the last months of the Convention's work? Can it be argued that the completion of the Convention's activities, and the presentation of the draft constitutional treaty have had a substantial impact on public opinion trends?

The conclusion of the Convention work coincided with the referendum on membership that took place on the 8th and 9th of June, 2003. Opinion poll trends should therefore have been more influenced by the pre-referendum campaign than by the Convention itself. The results of the opinion poll conducted in the first half of 2003 by the Public Opinion Research Center (CBOS¹²) showed a slight increase in the number of supporters of Poland's integration with the EU, and a decrease in the number of opponents (especially when compared to the March and April results).

On the other hand, according to the poll published by the European Commission, Poles are, in Europe, the least interested in the EU Constitution¹³. Only some 30% of Polish citizens intend to read the new Constitution or an abstract of it, compared with an average of 49% in the 25 countries. The poll also indicates a dramatic fall in the support for an EU Constitution – from 76% in Eurobarometer survey of May to only 53% at the end of June (with a EU-25 average of 68%). Only 24% of Poles supported the idea to create a EU foreign minister, and only 29% were in favour of a permanent President of the Council.

The result may reflect - on the one hand - the reservations about the draft Constitution raised by the politicians and media and, on the other hand, perhaps the effect of a decline in the interest for the EU issues after the referendum "mobilisation", with life "getting back to normal".

Regardless of the actual reasons for this change of public attitudes, there is no doubt that the EU Constitution contributed to a rather spectacular revival of public debates over the EU, with media, politicians and experts debating ardently on the two most controversial issues, namely the inclusion of a reference to the Christian heritage and, above all, the changes proposed for the QMV system.

¹⁰ Declaration by Prawo i Sprawiedliwość (Law and Justice Political Party) on non-performance by the Government during the Thessaloniki Summit with regard to the contents of the Constitutional Treaty, source: <http://www.pis.or.pl/>.

¹² Source: Poparcie dla integracji polski z Unią Europejską tydzień przed referendum akcesyjnym [*Support for Integration One Week before the Referendum*], CBOS, Warsaw, June 2003; <http://www.cbos.pl/>

¹³ Source: Polish Press Agency; <http://www.pap.com.pl/>.

The voices in the debate over the Constitutional project range from extreme criticism (mainly right-wing parties and their supporters), reflecting the disappointment with the project and the EU soon after the Poles voted “yes” in the membership referendum and the sense of deceit as Poles were supposed to vote for a different Union than the one that emerges from the draft Constitutional Treaty, to firm but rational and conciliatory opinions mainly from the pro-integrationists circles, and moderate voices on the side of experts analyzing pros and cons of the proposed new system¹⁴.

The public debate will certainly continue alongside preparations for the IGC and the would-be future EU Constitutional referendum in Poland.

2.2 The role of parliament

Was the draft constitutional treaty approved by the Convention discussed in your national parliament? Did the committees of your parliament working on EU issues address and examine, on a more or less regular basis, the work of the Convention? How did the government inform parliament about its initiatives and positions concerning the constitutional reform of the EU?

The draft Constitutional Treaty was discussed by both houses of Parliament with the participation of the government’s representative at the European Convention. It was also discussed in the European Committee, although only after the completion of the Convention works.

Unfortunately, the works of the Convention were not a subject of regular debates in the House and in the Committee, a problem which has been raised by the Chairman of the Committee during the post-Convention debate¹⁵.

While some members of the Committee lamented the lack of adequate information about the Convention proceedings, the Convention members in turn blamed the members of Parliament for scarce interest in the Convention issues.

A number of initiatives were undertaken by various political groups in Parliament: they included calls for a nation-wide referendum, appeals to EU parliamentarians about non-approval of the draft Constitution, and appeals to the government for maintaining a rigid position at the IGC. These initiatives reflect an increased interest in Convention-related issues.

The most recent activities of the Polish Parliament include a resolution of the *Sejm* Foreign Affairs Committee urging the government to undertake all possible initiatives to maintain the system of voting in the Council agreed at Nice¹⁶.

According to most members of Parliament, the change of the Nice rules would infringe on the rules approved by the nation in the membership referendum.

2.3 Other relevant initiatives

Do you think that the many initiatives undertaken by the EU to promote a public debate on European constitutional issues, notably by involving civil society, have had an

¹⁴ E.g. paper by Bartłomiej Nowak, *Europejski Konwent. Sukces czy porażka?* [European Convention. Success or Failure?] Centre for Integrational Relations, Reports and Analyses 8/03, <http://www.csm.org.pl/>.

¹⁵ Source: <http://www.sejm.gov.pl/> - Parliamentary (lower house) website.

¹⁶ Source: *Gazeta Wyborcza*, 9 September, 2003, <http://www2.gazeta.pl>.

impact in your country? Has your government played an effective role in raising the knowledge and awareness of public opinion concerning the Convention's goals and activities?

The polls show that the EU initiatives aiming at promoting a wider debate on EU constitutional issues did not have much impact in Poland.

Despite the efforts of some pro-European NGOs (like the Robert Schuman Foundation¹⁷ which regularly reported on the Convention news), before the final stage of the Convention, the EU constitutional issues were not very much present in the national foreign policy debate which was dominated by other EU-related issues.

The government web-site provided up-to-date information on the proceeding of the Convention, a collection of documents and contributions, synopses of the Convention sessions, alongside with internet forums. Extensive reports on Polish European policy are also available on the other official web-sites e.g. those of the Ministry of Foreign Affairs, the Committee for European Integration, the office of the Prime Minister and other central agencies.

Under the auspices of the Ministry of Foreign Affairs a Forum entitled "Together about the Future of Europe" was established in February 2002 with the aim of stimulating the debate about the future shape of the enlarged EU. The Forum, bringing together NGOs, academic and research institutions, churches and media, was articulated in a number of meetings on various EU issues, including those discussed at the European Convention.

The Polish representatives to the Convention gave a number of interviews and participated in numerous media discussions, although they became particularly active only towards the end of the Convention when the Nice arrangements were discussed.

2.4 Media coverage

How was the media coverage of the final, crucial phase of the Convention's work? How extensive has information on the content of the draft constitutional treaty been? Has it been presented in a positive or negative light? Which issues have been covered the most?

The debate over the EU constitutional issues enjoyed a rather wide coverage in the Polish media which, even if preoccupied with a number of domestic problems, devoted numerous and high quality reports to Convention issues. Most newspapers and the most important internet portals provided up-to-date information on the Convention and basic issues related to constitutional issues discussed within this forum. The most serious coverage was provided by the Polish Press Agency and the two main Polish daily newspapers. The Polish Press Agency provided regular reports on the Convention, the government's positions and the initiatives undertaken by political parties and other lobbies regarding the EU within its European service *Europap*. The two main nationwide dailies, *Gazeta Wyborcza* and *Rzeczpospolita*, provided on their internet sites access to the text of the draft Constitution together with quite extensive commentaries and fresh news from the debate on constitutional issues in Poland and in Europe.

The two issues that raised public interest the most were the QMV system and the reference to Christianity in the Constitution. The way these two central issues were

¹⁷ <http://www.schuman.org.pl/>.

presented by various media reflected their general stance towards integration, ranging from extremely negative, e.g. right-wing *Gazeta Polska*¹⁸, to moderate and balanced. In the latter case the focus was on the potential benefits and costs of the EU Constitution as proposed by the Convention.

3. Prospects for the Intergovernmental Conference

3.1 Link between the Convention and the IGC

The Thessaloniki Council did not go beyond defining the text of the draft constitutional treaty “a good basis for starting the Intergovernmental Conference”. In your government’s view, should the IGC limit itself to endorsing the results of the Convention, concentrating only on the few issues that still remain controversial, or engage in a more comprehensive review of the draft constitutional treaty?

The Polish position vis-à-vis the IGC does not seem to go beyond the request that it review the issues that are more controversial from the Polish point of view. As said above, the government representatives have repeatedly confirmed the general support for the draft Treaty. Poland will probably concentrate on the following objectives:

- maintaining the Nice system for the weighting of votes in the Council
- making the institutional system proposed in the draft Constitutional Treaty more efficient
- including a system of team Presidencies for the Council
- eliminating the Legislative Affairs Council
- securing participation of all EU Member States in decision-making on the establishment of the co-operation mechanisms in CFSP (and particularly ESDP) as well as giving more emphasis in the treaty to the role of NATO in the Euro-Atlantic defence system
- including of the reference to the Christian tradition in the Preamble¹⁹.

3.2 Organisation of the IGC

To prevent the upcoming Intergovernmental Conference (IGC) from bogging down in obscure and prolonged negotiations, as in the previous IGCs, the Italian government, which will hold the EU’s presidency until December 2003, proposes that the IGC be held mostly at top-level, i.e. at the level of the Heads of State and Government and the Ministers of Foreign Affairs. Does your government agree with this approach?

Poland seems to have no objections to the proposal that the IGC should only be held at the level of top government representatives.

3.3 Controversial issues

3.3.1 Elected President of the Council

¹⁸ <http://www.gazetapolska.pl/>

¹⁹ Position of the Council of Ministers for the IGC on the Treaty establishing the Constitution for Europe; Chancellery of the Prime Minister, 9 September 2003; source: <http://www.kprm.gov.pl/>

While there is general agreement concerning the establishment of a permanent and elected President of the Council, there are still different ideas on his/her functions, especially on whether or not he/she should play a co-ordinating role with regard to the presidencies of the other Council formations.

As for the functioning of the Council, Poland wants to keep the rotating Presidency. It is felt that despite the difficulty it has in ensuring continuity, the rotating Presidency offers more incentives for political leadership, bringing new elements and new vitality into the integration process with every change of the Presidency. Therefore, rotation should be retained although in the context of a new institutional system. To give more continuity and stability to the rotating Presidency, a system of team Presidencies lasting 2-2¹/₂ years could be developed. The Presidencies would be guided by a Steering Committee, chaired by the European Council Chairman and composed of the chairpersons of the various Council formations.

On the other hand, Poland sees the need for the election of a longer-term Chairman of the European Council to prepare and manage the European Council sessions. This person would also represent the European Union on the world fora. He/she should be elected by the European Council by qualified majority voting on the basis of a proposal by the team presidencies.

3.3.2 Composition of the Commission

The debate in the Convention concerning the European Commission eventually concentrated on its composition. The Convention approved the following proposal: "The Commission shall consist of a College comprising its President, the Union Minister of Foreign Affairs/Vice-President, and thirteen European Commissioners selected on the basis of a system of equal rotation between the Member States." In addition, "the Commission President shall appoint non-voting Commissioners, chosen according to the same criteria". Does your government back this proposal or is it in favour of a different solution?

Poland supports the proposal of maintaining – until 2009 – the rule of one country – one Commissioner. At the Convention the government representative stressed that the statement "a big [Commission] is by definition inefficient²⁰" is not necessarily true, as the efficiency of the Commission depends in the first place on its modus operandi and not on the number of Commissioners, although the Polish Government is still aware of the necessity of further reforms in this respect.

Poland accepts the proposal to have voting and non-voting Commissioners, but stresses the need for a rotation mechanism that can ensure equality.

3.3.3 Definition of qualified majority voting

The Convention has proposed abolishing the current weighting system for qualified majority voting (QMV), by defining QMV as the majority of the member states

²⁰ Interview with Min. D. Huebner for the Polish Press Agency, 13 June 2003, source: <http://www.pap.com.pl/>

representing at least 60% of the European population. Is your government satisfied with this provision, or would it rather change it?

The system of QMV is by far the most controversial and discussed issue in Poland. Already during the Convention, Poland opposed changing the Nice arrangements in this respect. On many occasions both the Prime Minister and the Foreign Minister stressed that Poland sees no reasons for changing the system, especially because it has still to be tested. This position is shared by all political parties inside and outside the Parliament.

3.3.4 Extension of qualified majority voting

Does your government support an extension of QMV to policy fields other than those indicated in the draft constitutional treaty, such as taxation and CFSP?

Poland thinks that the Convention's proposal concerning the voting system in the area of Common Foreign and Security Policy can guarantee the efficiency of the decision-making process while preserving the role of national governments.

3.3.5 Minister of Foreign Affairs and EU diplomatic service

While there is a consensus on the creation of a EU Minister of Foreign Affairs, different views exist concerning the executive structure he/she should rely upon. What is your national government's position on this issue? Should the structure be placed within the Commission or the Council?

Poland is in favour of the double-hatted Minister of Foreign Affairs, including his/her placement within the Commission as its Vice-President, although – as mentioned by Minister Huebner – Poland prefers the title “Representative” rather than “Minister”. It also stresses the need for a mechanism that minimises the potential inconveniences of the “double hatting”

To this end Poland proposes that the Minister of Foreign Affairs submit his/her proposals to the Council on behalf of the Commission.

4. The ratification process

4.1 Eventual obstacles

Do you think that the process of ratification of the new constitutional treaty may encounter difficulties or major political opposition in your country? If so, which?

Some political parties and their electorates are against the Polish membership in the EU or the federalisation of the EU. Their opposition can complicate the ratification process of the Constitutional Treaty²¹. The recent debate over the institutional system proposed by the Convention suggests that dissatisfaction about some conditions of Poland's membership may increase the opposition to ratification.

²¹ See the statements of Prawo i Sprawiedliwość [Law and Justice – parliamentary party] and the British Conservatives in: Polish Press Agency, 10 September 2003

4.2 European Parliament elections

According to the conclusions of the Thessaloniki Council, the Intergovernmental Conference should “complete its work and agree the Constitutional Treaty as soon as possible and in time for it to become known to European citizens before the June 2004 elections for the European Parliament”. Do you expect the constitutional issues to become a central matter of debate during the electoral campaign in your country? Or do you think that the European Parliament elections are more likely to be dominated by national issues?

The 2004 European parliamentary elections will be the first for Poland. For this reason, it is difficult to foresee the issues on which they will concentrate. The campaign could be influenced by the eventual results of the IGC as regards the institutional arrangements. Also, the electoral system of the European election has still to be adopted.

4.3 Referendums

For constitutional reasons, some countries need to submit the EU Constitutional Treaty to a national referendum before it can enter into force. Others may decide to hold a referendum in order to give the national ratification more legitimacy. Is a referendum foreseen in your country? If so, do you expect this to be a factor that will complicate or facilitate the ratification process?

There are two possibilities in Poland: ratification by Parliament or by referendum. It is unclear which option will be adopted eventually, although many have asked that the decision be taken by the people for at least two reasons:

- the European Constitution both in its current shape and after the potential revision by the IGC can result in a major constitutional change for Poland;
- the current draft Constitutional Treaty contains profound changes compared with the EU treaties in force when the Poland membership was submitted to referendum.

4.4 What to do in case of failed ratification

Has your government expressed any preference on the eventual initiatives to be undertaken in case one or more countries should fail to ratify the new treaty?

The question of possible solutions in the case of the non-ratification scenario seems a bit premature as - for the time being - such a scenario seems unlikely. The non-ratification scenario has not been debated so far and will probably become an issue only after the final text of the Constitutional Treaty is adopted.