



Université catholique de Louvain

IGC 2003:

**POSITIONS OF 10 CENTRAL AND EASTERN
EUROPEAN COUNTRIES ON EU INSTITUTIONAL REFORMS**

**ANALYTICAL SURVEY
in the framework of the CEEC-DEBATE project**

The debate on the *finalité politique* of the European Union in the applicant countries from Central and Eastern Europe – measures accompanying other EU activities to prepare the IGC 2004

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www.tepsa.be
www.euro.ucl.ac.be

Introduction

The debate on the future of the European Union has intensified with the presentation of the draft Constitutional Treaty by the European Convention in June 2003 and with the beginning of the Intergovernmental Conference (IGC) which started in October 2003. Eight acceding countries from Central and Eastern Europe and since 1 May 2004 fully-fledged members of the European Union participate with full rights in the IGC, thus becoming co-responsible for shaping the new constitutional framework for the enlarged EU.

A few weeks before the European Summit which will take place in Brussels on 17 and 18 June 2004, we present the second issue of the *CEEC Debate Analytical Survey*. It focuses on the national debates on the IGC and its preliminary outcomes in the new member states and acceding countries from Central and Eastern Europe.

The survey is a part of a broader project ("*CEEC-Debate*") aiming at raising awareness about the importance of having a substantial and deep debate on Europe's future among Central European elites, politicians and civil society. The analysis of the debate as such, its perception in current member states and comparison between attitudes of "new" and "old" EU members are key elements of the project.

After having monitored the European Convention and the role which the acceding countries played in its deliberations (see: first issue of the *Analytical Survey*¹), we now aim at analysing the positions of the new members and candidate countries (Bulgaria and Romania) in the IGC. The report shows a political dynamics which characterises the behaviour of the new EU member states. Whereas one year ago we stressed a generally cautious approach, a rather weak involvement in the deliberations of the Convention as well as weaknesses of a public debate in these countries, the situation slightly changed in the context of the IGC. The new members are basically following the mainstream, thus smoothly adapting themselves to the EU political bargaining. However, the new members as fully-fledged actors participate already actively in the coalition building and their national interests are much more pronounced than during the European Convention. Obviously, the intergovernmental method of the IGC, its role and scope, differs from these of the European Convention and that also implies a different political behaviour of actors, including these from the new members.

The analytical survey 2004 concentrates on five main issues: a provisional assessment of the outcome of the IGC; analysis of major controversial issues from the perspective of the CEECs; an overview of the prospects for the ratification of the Constitutional Treaty; elections to the European Parliament as

¹ Positions of 10 Central and Eastern European Countries on EU institutional reforms: Analytical survey, eds. Christian Franck and Dorota Pyszna-Nigge, Université Catholique de Louvain, Louvain-la-Neuve / Brussels, June 2003, <http://euro.ucl.ac.be/>

well as the question of awareness of the Intergovernmental Conference in the national parliaments, the media as well as among a broader public.

The present report shows that in spite of a general support for the outcome of the European Convention, none of the new members were fully satisfied with all provisions of the draft Constitutional Treaty. Some of them openly expressed their criticism at the IGC (e.g. Poland), whereas some of them remained “hidden” behind the back of the openly protesting countries (e.g. the Czech Republic).

On institutional questions, major points of criticism touched upon the number of the commissioners, the permanent presidency in the Council. Most of the new members are in favour of maintaining the rotating Presidency, the qualified majority voting system as well as the reference to Christianity in the Preamble. A general support was shown for the creation of a position of an EU foreign minister, extension of the qualified majority voting and the allocation of seats in the EP (with few exceptions; for example Slovenia, which called for an increase of the number of its MEPs).

New members demonstrated ambivalent reactions to the failure of the summit in Brussels in December 2003. Whereas some countries showed their open disappointment as to the outcome (e.g. Hungary or Latvia), other, principally favourable to keeping the Nice provisions, did not perceive a non-agreement in Brussels as a fiasco (e.g. Poland, Slovakia and the Czech Republic). In general, all of the new members and candidate countries stressed that the quality of the outcome to be achieved (a European Constitution acceptable for all Europeans) should prevail over keeping to a strict deadline and that more extensive discussions would lead to a better outcome.

The possible ratification of the Constitutional Treaty has not been an issue of a deeper debate in the new member states yet. So far, referenda are possible in the Czech Republic and Poland whereas none of the other countries are likely to hold referenda and the decision on the adoption of the constitution will go through the national parliaments.

In general terms, we observed a significant progresses of the open debate on the *finalité politique* in the CEECs. This debate was firstly limited to the elites and accompanied by a lack of general interest for a future design of the EU, because acceding countries were concentrated on the accession itself. Secondly, like in the old member states, the interest of the media and the general public in EU institutional reforms remains punctual and concentrates on such momenta as the beginning and the end of the Convention, the presentation of the draft Constitutional Treaty, the beginning of the IGC or the summit in Brussels in December 2003.

We hope that this publication, issued in the framework of the network activities of the *Trans European Policy Studies Association* (the “*CEEC-Debate*” project) and complementary to the *Agenda 2000 - Enlargement Watch* (<http://www.iep-berlin.de/publik/enlargement-watch/index.htm>), will give a substantial overview of national positions of Central European countries on EU reforms and that it will contribute to a better understanding of the interests and concerns of the new EU members in a new European Union. We would like to warmly thank all the correspondents from the ten countries, who contributed to the present publication for their involvement in this common project.

Christian Franck
Dorota Pyszna-Nigge

National Report Bulgaria

by Dr. Krassimir Y. Nikolov, Bulgarian European Community Studies Association

1. Outcome of the IGC

Bulgaria has regarded the work of the Convention as a major achievement both from a constitutional and from a political point of view. On the one hand, all Bulgarian representatives in the Convention – governmental as well as parliamentary – unanimously share the view that this forum has managed to achieve much beyond its original mandate and has produced a coherent constitutional text worthy of its ambitions. On the other hand, the possibility for a full-fledged participation of Bulgarian members of the Convention in its work adds a political rationale to making positive conclusions on its outcome. Endorsing the Convention's Draft Treaty establishing a Constitution for Europe would mean, from a Bulgarian perspective, the consolidation of an anticipatory status of an "equal among equals" in this format, already in advance of actual EU membership. The latter seems particularly valid in view of (the temporary) downgrading of Bulgaria's status of an observer during the IGC. Therefore, both substantive and political arguments exist in favour of a generally positive assessment of the Convention's results, which explains overall support for unfolding IGC discussions on the basis of the Convention's Draft Treaty.

However, on specific points (such as the options for institutionalising a new long-term format for carrying out presidency functions at different levels) Bulgaria has continued developing its positions expressed at earlier stages of Convention debates (support for a rotating presidency, or for team presidencies as a second-best option), rather than adopting unequivocally the establishment of the position of the European Council president. In other words, although at macro-level the Conventions' Draft Treaty has been regarded as a point of departure, at micro-level it has not succeeded in replacing earlier national positions.

Bulgaria's problem has been its un-equal status during the IGC. Being an observer, this country has had much fewer opportunities for expressing policy preferences or institutional options at the time of heated debate among the 25 full participants in the IGC. The only publicly available expression of Bulgaria's positions on IGC-related issues is a 1-page answer to the Italian Presidency's Questionnaire². With its instruments for exerting influence seriously restricted, Bulgaria has had to

² See: Reply from Bulgaria to the Questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers, CIG 11/03 of 15.10.2003.

reduce the scope of its negotiating objectives (within the spectrum of issues covered by the constitutional texts / IGC debate). Bulgarian politicians have focused on two short- to medium-term issues, which have direct relevance for the country, although remain peripheral for the Draft Treaty as such:

- Bulgaria aims to become EU member at the beginning of 2007. That is the reason why Bulgarian members of the Convention made a serious effort towards the end of proceedings of this forum to ensure the adoption of **a transitional formula on the functioning of EU institutions and bodies** (re-allocation of seats in the European Parliament and re-weighting of votes in the Council and the European Council, etc.) **for the period 2007-2009, which would not deprive Bulgaria and Romania from enjoying full EU member rights before the main institutional provisions of the Draft Treaty enter into force**. The two candidate countries succeeded in pushing through the adoption of a special declaration attached to one of the protocols adopted by the Convention³, which was maintained at the IGC stage of debate after some legal refinement⁴. In December 2003 this declaration was presented as a non-contentious issue⁵.
- In the framework of the whole “Future of Europe” debate (at pre-Convention, Convention proper and post-Convention stage), there have been few issues, on which Bulgarian politicians have adopted a pro-active stance. They have most frequently been related to a recognition of (equal) status, rather than to substantive constitutional, legal, political, policy, etc. questions discussed in international forums. One such issue in September 2003 – March 2004 has been the demand that, **despite its observer status, Bulgaria also be given the chance to sign the Constitution after its adoption, together with the 25 EU members**. This claim has been made both in the IGC format and publicly by Bulgarian politicians in interviews given domestically. After the IGC began, this claim has remained one (of two) occasions⁶ for relating the pre-accession process (including accession negotiations) to the ongoing process of EU constitutional reform. These efforts have proven successful in the autumn of 2003, insofar as the Legal Experts Group has been given the mandate to consider this task when elaborating constitutional texts⁷. The legal form of signing the document is yet to be worked out.

³ See: Protocol to the draft Constitutional Treaty on the representation of citizens in the European Parliament and the weighing of votes in the European Council and the Council of Ministers, Art 2 (2)

⁴ See: Editorial and legal comments on the Draft Treaty establishing a Constitution for Europe – basic document, CIG 4/1/03 REV-1 of 06.10.2003 (14.10.), p. 548.

⁵ Intergovernmental Conference (11-12 December 2003) – Addendum 1 to the Presidency Proposal, CIG 60/03 ADD-1 of 09.12.2003, p. 61-62.

⁶ Comments of the second occasion for such references see further down.

⁷ See item 27 in: Issues to be dealt with by the Legal Experts Group (new mandate), CIG 43/03 of 04.11.2003, p. 5.

Given the limited possibilities for Bulgaria's participation in the IGC and the restricted goal-setting related to it, we should not be surprised to discover a rather moderate Bulgarian reaction – by media and politicians alike – to the failure of the European Council of 12 December 2003 to reach an agreement on the Constitution. **The bad news of this failure was very much overshadowed by the success of Bulgaria and Romania to ensure the EU's commitment for these countries' accession to the Union from the beginning of 2007⁸.** The latter was regarded as a serious achievement for Bulgaria, as the result of a consistent effort to confirm not only the year of accession (which had been achieved at the European Council in Thessalonica in June 2003), but now also its date.

2. IGC: controversial issues

Having only observer status at the IGC, Bulgaria has not been very outspoken during the heated debate on most controversial issues. Support for the option of rotating presidencies or team presidencies (stated in the reply of 15 October 2003) signals continuing disapproval of the figure of president of the European Council.

On the other controversial issues (Commission composition, definition of QMV, extension of QMV, EP budgetary powers), two positions of the Bulgarian government from the Convention debates are worth reminding, because of their (sometimes rather unusual) firmness:

- **Composition of the Commission:** firm support for the option “one commissioner per member state”;
- **Budgetary powers of the European Parliament:** in several official documents / statements – almost throughout the Convention debate – the Bulgarian government representative has called for “autonomous” / “independent” budgetary competences of the EP, and only at the end (May 2003) it has returned to a more traditional understanding on the matter – that of “shared competences” of the EP and the Council.⁹

3. Elections to the European Parliament

Since Bulgaria has not finished accession negotiations and will not enter the EU before 2007, the European Parliament elections scheduled for June 2004 will not cover this country. However, at earlier stages of accession in 2001-2002 – at the time of adolescence of the current governing elite – the issue

⁸ Item 35 of the Presidency Conclusions reads as follows: “Welcoming Bulgaria and Romania in January 2007 as members of the Union, if they are ready, is the common objective of the Union of 25.”, See: European Council in Brussels 12 December 2003 – Presidency Conclusion, p. 10.

⁹ See pp. 19-20 in: Nikolov, Krassimir, National Report Bulgaria, pp. 8-26 in: Positions of 10 Central and Eastern European Countries on EU institutional reforms: Analytical survey, Universite catholique de Louvain, Louvain-la-Neuve / Brussels, June 2003.

of organising elections to the EP also in Bulgaria has been raised. Some leading MPs from the governing coalition have supported the idea, as a result of the influence several factors:

- The fact that Bulgaria was “taken seriously” at the Nice European Council (December 2000), and was given 17 seats in the European Parliament.
- The fact that Bulgaria and Romania were deprived from the perspective to enter the EU together with the other 10 candidates, as was agreed at the Laeken European Council (December 2001). The organization of EP elections in Bulgaria in 2004 was seen to have a counter-balancing effect on a possible raise of negative attitudes in public opinion in the country after the entry of the 10 candidates.
- The adoption (February 2002) of a Strategy for accelerating accession negotiations as a reaction to the Laeken decisions. According to this document, Bulgaria’s accession negotiations would have been over by the end of 2003, which would have allowed the elaboration of the accession treaty to take place in the first half of 2004. Such a timetable would have fitted in the EP elections schedule, and would have permitted the country to claim the holding of elections, and the participation of Bulgarian MEPs in the work of the EP, as observers, following the model of previous enlargements (including the participation of MEPs from Germany’s five Eastern *Länder* after the country’s reunification in 1990). [This strategy was modified at a later stage, and rendered talks on EP elections in Bulgaria out of date.]
- The support that this idea received in 2002 from representatives of some embassies of EU member states in Sofia.

On this background, the debate about holding EP elections in Bulgaria has gradually faded away in 2003, and has not been resumed.

4. Awareness of the IGC

IGC-related debates in Bulgaria have built upon the momentum gathered during the work of the Convention. The organization of discussion forums has continued also during the proceedings of the IGC. However, the “European Constitution” in general, rather than specific issues debated in the IGC has stood in the focus of these events, due most of all to the closed character of the IGC proceedings.

In 2003-2004, the European constitutional debate has gradually been “internalised” in Bulgaria, at political and to some extent at expert level, following the path of modifications necessary to be

introduced in the Bulgarian constitution as a result of accession. The National Assembly has established a special Constitutional Committee, which has identified the fields, where changes would be needed, but without proposing solutions (yet). The idea of summoning a Grand National Assembly, which would be the only forum competent to make some of the changes, has been proposed by the Chairman of the European Integration Committee in the parliament. On the other hand, socialist MPs and legal experts, as well as the President, call for a “wait-and-see” approach to the subject: constitutional changes in Bulgaria should be undertaken after the end of the IGC. Thus, the “European Constitution” serves as a general reference in this debate, albeit without specific substantive arguments pro & contra; it is interpreted as an external phenomenon, which will “happen”, and which will have to be taken into account.

The proceedings of the IGC have not raised much media attention, with the exception of the sharp opposition between two groups of EU member states on the definition of QMV (on the eve of the European Council in Brussels in December 2003).

National Report Czech Republic

by Petr Krotohvil, *Institute of International Relations, Prague*

The debate about the future development of the European Union has dramatically accelerated in last months (end of 2003 – beginning of 2004). There are already some signs of “domestication” of EU-related issues. Thus, political circles have paid much attention to the issues like the EP elections or the nomination of Commissioners and they have had deep impact on domestic politics. This is, of course, not to say that there has been a general shift in the Czech identity but only that politicians slowly begin to treat the EU as a normal political topic even in domestic environment. This change, nevertheless, takes place almost exclusively at political level and not so much at the level of ordinary people who still consider the EU as something strange and unfamiliar. Therefore, below I analyse two different worlds: one is that of politics, academia, and media, the other is that of an average citizen who barely knows anything about functioning of the EU. This makes any assessments of the impact of the IGC failure on the Czech population extremely difficult

In the following analysis, I focus on a number of actors who shape the Czech discourse about the EU. It might be, therefore, useful to explain shortly who these main actors are. I analyse positions of five main political groupings:

- CSSD – the Czech Social Democratic Party, which won the last elections; it is the biggest party in the current Government, the party declares to be “pro-European”.¹⁰
- KDU-CSL, US-DEU – two smaller parties that form, together with the CSSD, the current government. The KDU-CSL is a typical Christian Democratic party defending conservative values and its support remains remarkably stable whereas the US-DEU is a liberal party that is slowly disintegrating. But both parties have got one thing in common – they believe to be in the government to give the Czech foreign policy a bigger integrationist twist.
- ODS – the Civic Democratic Party, the biggest opposition party, labelling itself “Euro-realist”, which is interpreted by its opponents as “Euro-sceptical”.¹¹

¹⁰ For examples of the CSSD’s view of the Czech future in the EU see *Politika* “CSSD ve vztahu ke evropskému sjednocování” (The Policy of the CSSD in Relation to the European Unification), an analysis from the official CSSD web site, http://www.socdem.cz/vismo/index.asp?tz=2&?u=422010&id_org=422010&id=109860, or, in more detail: Euromanifest CSSD: “Clenství v Evropské unii – historická příležitost pro Českou republiku” (CSSD Euromanifesto: Membership in the European Union – a historical opportunity for the Czech Republic). http://www.cssd.cz/vismo/index.asp?tz=2&id_org=422010&id=112051. For more up-to-date information about CSSD’s attitudes towards the EU, see below.

¹¹ See: e.g. Zahradil, J., Plecický, P., Adrián, P., and Bednár, M.: Manifest českého eurorealismu (Czech Eurorealist Manifesto). ODS Ideological Conference, 21 April 2001, www.ods.cz. For more up-to-date details about the position of the ODS see below.

- KSCM – the (Bohemian and Moravian) Communist Party, in some respects the most Euro-sceptical party of the Czech political spectrum (apart from some negligible extremists). Its criticism was originally directed against the EU membership of the Czech Republic but nowadays the Communists seem to accept the reality of accession and focus rather on making Europe more acceptable for communist voters.¹²

I also analyse various documents from several Czech think-tanks, above all the Institute of International Relations¹³ and Europeum (a pro-European think-tank that also takes active part in Czech debate about the future of Europe),¹⁴ both chambers of the Czech Parliament,¹⁵ as well as the internet journal *Integrace* which copes with the EU.¹⁶

1. Outcome of the Intergovernmental Conference

It is quite difficult to say whether the Czech Government would prefer the adoption of the unchanged Constitution as it was agreed by the Convention or whether maintaining the provisions of the Treaty of Nice would be regarded as a better solution. The Czech Government perceives both alternatives as attractive: on the one hand, both Prime Minister Špidla and Foreign Minister Svoboda would like to show their Europeaness by promoting a deeper integration which would require support for the Constitution. On the other hand, if the Constitution was adopted without the proposed changes, the government would have great difficulties in fighting off the critique of the opposition which is, in the purely mathematical sense of the word, right when saying that the weight of the Czech Republic would diminish under the new Constitution. In any case, the government's preferred option was a third one, namely to amend the Draft Constitutional Treaty by incorporating in it the Czech requirements. These include above all the rule "one country – one commissioner", or a different definition of the qualified majority voting.

The opposition and within it especially the conservatives (ODS) clearly favoured the rejection of the European Constitution. This stance was in line with the overall negative approach of the ODS towards a deeper integration. This became clear well before the end of the deliberations in the European

¹² "S Vámi a pro Vás, doma i v Evropské unii. (Návrh tezí programu KSCM pro volby do Evropského parlamentu)", (With You and For You, at Home and in the EU – Draft Programme of the KSCM for the Elections to the European Parliament)

http://www.kscm.cz/news_detail.asp?menu=1&necId2=286&necId=286&newId=1214

¹³ Ústav mezinárodních vztahů (Institute of International Relations). www.iir.cz

¹⁴ Europeum, Institute for European Policy, <http://www.europeum.org/EN/default.asp>

¹⁵ See especially Czech Senate's web site (www.senat.cz) and its section dedicated to the Future of Europe debate (<http://www.senat.cz/ISO-8859-2.cgi/evropa/>).

¹⁶ *Integrace*, <http://www.integrace.cz/>

Convention, as one of the *Czech conventionnels*, member of the ODS Jan Zahradil has voiced his opposition to further communitarisation ever since the inception of this assembly.¹⁷

From the European Convention to the IGC: change of national position?

In a certain sense, the Špidla's government found itself between the hammer and the anvil, because it consistently tried to move the official Czech position towards the European mainstream but, at the same time, it was exposed to sharp criticism of the opposition which accused the government of betraying people to the elitist interests of the European bureaucracy. Thus, there was much pressure from the opposition on the government to specify the mandate for negotiations, so that to make any potential Czech concessions less probable. But both the Communists and the ODS failed to make the government commit itself to "not worsening of the position of the Czech Republic."¹⁸

Thus, the renewed mandate reiterated the old list of priorities which had been presented by the government's representative in the Convention already before the final draft was adopted, including the rule one commissioner for each country, rotation of Council presidencies, several changes in qualified majority voting and the like.¹⁹

There were also only minor changes if we compare this mandate with the government's "Non-paper on the reform of the EU institutions".²⁰ The practical approach of Czech negotiators, however, changed in at least two respects: First, Czechs seemed to be willing to openly discuss any of the items on the agenda without specification of any areas where their position would be unalterable. This made the Czech approach fundamentally different from that of Poland and some other countries that chose a tougher stance. And so, as the Czech opposition did not agree with this "soft" approach, Czech negotiators were in a very uncomfortable position: having to hold to the mandate, they were not equipped with any red lines which they could use as a shield against unfavourable developments; and even if the results were satisfactory for them, they still could remain unacceptable for the conservative opposition at home which strictly adhered to a negative attitude towards the Constitution.

The second change applied to the hierarchy in Czech priorities. During the deliberations of the Convention, the principle "one country – one commissioner" became a mantra of the Czech

¹⁷ Zahradil, Jan: Krachuje snaha sevřít Evropu do smluvní kazajky. (The Failure to Bind Europe in a Straitjacket). *Lidové noviny*, 15.12.2003

¹⁸ Address of MP Hynek Fajmon, 21st session of the Chamber of Deputies. 7 October 2003, <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021045.htm>, for a commentary see: "Opozice prohrála souboj s koalicí o euroústavu". (The Opposition Lost a Battle against the Coalition over the European Constitution), *Právo*, <http://www.novinky.cz/01/69/09.html>

¹⁹ Ibid.

²⁰ Non-paper on the reform of the EU institutions. Ministry of Foreign Affairs, <http://www.mzv.cz/missionEU/Czech-non-paper-reform-institutions.doc>

diplomacy. This changed rather abruptly and in its stead the issue of qualified majority voting came to the fore. Some analysts believe this change to be just a tactical one as the shift came only after the dispute over Commission composition had been already solved.²¹ But even with majority voting, Czech negotiators remained flexible²² and proposed several possible solutions, most of them based on parity between population percentage and number of Member States.²³

Coalition building

The Czechs belonged, in spite of the above-mentioned double pressure, to the most active countries during the IGC. The Presidency consulted them several times and they succeeded in making their position visible. The Czech Republic also participated in the coalition building. The most important example of such coalition building was the group of like-minded countries, the number of which varied between fifteen and eighteen. The activity of the Czech officials can be nicely illustrated by the meeting of the like-minded countries which was held in Prague in early September where the group tried to bring its members closer before the IGC started.²⁴ Small and medium-sized countries that formed this coalition quite naturally supported each other in institutional questions where their interests seemed to be identical or at least overlap. This was, however, not the case with other questions, such as CFSP or extension of majority voting where ad hoc coalitions for each particular question offered a more effective way to proceed.

Also the Czech media very intensely discussed long-term coalition options suitable for the Czech Republic. The Visegrad Group was mentioned several times during and after the IGC. In this context, some analysts noticed the growing cleavage between Poland, a new, yet surprisingly assertive member of the exclusive club of the six big EU Member States, and the three smaller Visegrad Countries that, unlike Poland, closely co-operated within the group of like-minded countries.²⁵ Similarly, Jan Kohout the *conventionnel* who represented the government in the Convention also pointed out that Poland tried to play the role of regional leader but that there was no common will to have such a leader.²⁶

²¹ See: Král, David: The Czech Reaction to the IGC Failure – Disillusion or Indifference? Europeum (Institute for European Policy), http://www.epin.org/pdf/BC_Kral.pdf

²² See: comment of the Prime Minister Špidla: “Klaus nechce novou evropskou ústavu” (Klaus Does Not Want the New European Constitution). *Právo*, <http://www.novinky.cz/02/14/39.html>

²³ For a detailed discussion of the Czech position see Kratochvíl, Petr: Qualified Majority Voting and the Interests of the Czech Republic. Europeum (Institute for European Policy), http://www.europeum.org/en/Analyses/qualified_majority_voting.pdf

²⁴ We should, nevertheless, not omit Austria’s special role in organising meetings of the group.

²⁵ Král, David: Profil zemí Visegrádské skupiny v debatě o budoucnosti Evropy (Position of Visegrad Countries in the Debate about the Future of Europe). Europeum (Institute for European Policy), http://www.europeum.org/cz/Analzy/visegrad_v_konventu.pdf

²⁶ Interview with Mr. Jan Kohout, Deputy Foreign Minister for European Affairs and Delegate in the Convention about the Future of Europe. <http://www.integrace.cz/integrace/clanek.asp?id=725>

A well-known analyst Jirí Pehe even suggested the reorientation of the Czech Republic away from Poland to countries of the same (or smaller) size, notably Hungary, Slovakia, Austria or Slovenia.²⁷ On the other hand, the Tory-like ODS rejects the shift away from Poland and considers the Czech northern neighbour as the most suitable ally. There are plenty of reasons for this stance according to the ODS: Polish negotiating position at the IGC, for example, was greatly appreciated in the opposition camp and the ODS believes Poland's to be an excellent example of rational behaviour in the EU. In a similar way, Poland's consistent advocacy of a deeper transatlantic partnership resonated in the ODS too. It is, therefore, obvious that in the ODS, the "small countries bloc" option remains fairly frowned upon.²⁸

Outcome of the Summit in Brussels on 12/13 December 2003

With regard to the European Union as such, the Czech perception on the latest developments in the integration process is far from being uniform. The most popular party, the conservative Civic Democrats have become more vocal in their opposition to the EU and to any attempts at creating a European super-state. Also the new Czech President and former chairman of the ODS Václav Klaus helped the party to gain more support for its crusade against "the creeping unification" of Europe.²⁹ None of those who are familiar with the present Czech political situation can be surprised to hear the conservatives saying after the collapse of negotiations that "no tragedy happened"³⁰ and that the failure of the Intergovernmental Conference showed to a certain extent that "*the present conception of EU integration has, in many respects, exhausted itself.*"³¹

A similar rhetoric could also be heard from the extreme left, because the Czech communists, to a big surprise of many political analysts, usually take a similarly sceptical position towards the EU and, hence, echo the criticism coming from the right. In fact, the communists were the only relevant political force which recommended their voters to altogether reject the Czech accession to the EU. It is no wonder that the party used the failure of the Brussels summit to paint the EU in dark colours. The chairman of the party Miroslav Grebeníček accused big European countries, especially France and Germany, of the failure and, in order to have an axe to grind, refused a "dictatorship" of any great power, indicating thus indirectly possible similarities of the current situation with the inter-war

²⁷ Pehe, Jirí: Is the End of Visegrad in the Offing? *Visegrad Info*, <http://www.pehe.cz/Clanky/2004/02-18-visegrad.htm>

²⁸ Zahradil, Jan: Poláci – naši spojenci v unii. (Poles – our allies in the Union). www.ods.cz

²⁹ Klaus, Václav: Evropská ústava zmení naši budoucnost. (The European Constitution Will Change Our Future). <http://www.klaus.cz/klaus2/asp/clanek.asp?id=e3iQ2Tc9iRnC>

³⁰ Address of MP Hynek Fajmon, 21st session of the Chamber of Deputies. 7 October 2003. <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021045.htm>

³¹ Tiskové prohlášení Jana Zahradila k výsledkům Mezivládní konference v Bruselu ze dne 15.12.2003 (Press Release of Jan Zahradil in Regard to the Results of the Intergovernmental Conference in Brussels on 15 December 2003), www.ods.cz. For an even more pronounced statement see Zahradil, Jan: "Krachuje snaha sevřít Evropu do smluvní kazajky". (The Failure to Bind Europe in a Straitjacket). *Lidové Noviny*, 15 December 2003

behaviour of European great powers.³² On the whole, the opposition once more demonstrated its ambivalent stance toward the EU and thus highlighted the rift between the European policy of the ruling parties and their own.

On the other hand, the three ruling parties have not bothered to hide their disappointment too much. At the same time many of their representatives repeated that “*Europe went through a number of similarly complicated moments*”³³ and that “*one not quite successful conference does not mean an end to the integration project*”.³⁴ The Czech Prime Minister Vladimír Špidla also showed a moderate amount of optimism when saying that he, in spite of his disappointment, believes in solution of the few remaining problems in the foreseeable future. He added that quality should be preferred to quantity and as the political willingness to find compromises was absent at the Conference, further negotiations will be required.³⁵

Politicians from across the political spectrum, however, made no connection between the failure of the IGC and the upcoming enlargement. According to the Foreign Minister Cyril Svoboda, it is important that the failure did not raise any doubts about the EU enlargement as such. Similarly, during the parliamentary hearing on the IGC, the ODS explicitly stated that “*the Treaty of Nice and the Accession Treaties constitute a sufficient framework for functioning of the EU in its enlarged form.*”³⁶

2. IGC: controversial issues

The political debate about the controversial issues has frequently been quite vigorous due to sharply divergent views of the strongest political parties. Although both the government and the Foreign Ministry officially strove for an open debate not only in the parliament, but also among a wider public, they have not been very successful in their endeavour. The final mandate for negotiations at the IGC is, for example, still not available on the web site of the government, similarly to other documents referring to topical questions concerning the EU, which as a whole are also scarce there. The debate in the parliament has also started rather belatedly and the opposition was hence not able to push through any of its proposals.

According to Czech Government, an analysis of the institutional architecture and its reform is not an easy task. Because of a lack of primary sources, it was necessary to reconstruct the stance of the

³² Proc se Evropa nedohodla? (Why Europe did not make a deal?)
http://www.tiscali.cz/euro/euro_center_031213.678194.html

³³ Ibid.

³⁴ Ibid.

³⁵ Jednání o euroústave ztroskotala. (Negotiations About the European Constitution Shipwrecked).
<http://www.radio.cz/cz/zpravy/48499>

³⁶ Address of MP Hynek Fajmon, 21st session of the Chamber of Deputies. 7 October 2003.
<http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021045.htm>

government almost exclusively from the parliamentary debates, which ensued after the government's adoption of the mandate, or from newspaper articles and interviews with leading politicians.

The basic attitude of the government on the institutional reform was to propose only such changes that would not destabilise the current system or, in other words, that would not tip the balance in favour of any of the three dominant institutions: the European Commission, the European Council (and the Council of Ministers) and the European Parliament.³⁷

The mandate itself comprised seven most important points which were supposed to be roughly identical with Czech priorities at the IGC. First of all, each country shall have a fully-fledged commissioner in the European Commission. During the parliamentary hearing this point was no more considered as a priority number one, but still much emphasis was put on the requirement not only that each country should have its own commissioner, but also that all commissioners should have a full right to vote. Thus, the idea of junior commissioners or any kind of rotation within the Commission were rejected.³⁸ In this respect, even the ODS agreed with the government's position, although it dismissed the importance of it. An ODS Member Jan Zahradil stated, however, that this issue shows quite clearly a violation of the treaty, because according to it, commissioners should be independent of any influence from the country of their origin which is, according to Mr. Zahradil, obviously not true.³⁹

Second of all, permanent presidencies of the Council formations should be rejected and supplanted by rotating presidencies that would guarantee equal status of all Member States.

Thirdly, the Czech Government agrees with the creation of a EU Foreign Minister, but his/her position should be further specified. The Foreign Minister Svoboda stressed during the parliamentary hearing that the government does not understand the office of a EU Foreign Minister as something totally new, because it simply merges the role of the high representative for CFSP and that of the commissioner for external relations. He furthermore added that the creation of this new position does not pave the way for unification of European foreign policy, but rather focuses on a closer co-operation.⁴⁰

Fourthly, the Czech Government agrees with the creation of a President of the EU who should, however, not exercise any executive power.

³⁷ Address of Foreign Minister Cyril Svoboda, 21st session of the Chamber of Deputies. 7 October 2003, <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021004.htm>

³⁸ Address of Foreign Minister Cyril Svoboda, 21st session of the Chamber of Deputies. 7 October 2003, <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021005.htm>

³⁹ Address of MP Jan Zahradil, 21st session of the Chamber of Deputies. 7 October 2003, <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021009.htm>

⁴⁰ Address of Foreign Minister Cyril Svoboda, 21st session of the Chamber of Deputies. 7 October 2003, <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021005.htm>

Fifthly, the EU Member States should offer guarantees that the European defence will not weaken the effectiveness of NATO.

Sixthly, any extension of qualified majority voting shall be approved by national parliaments. Unanimity is believed to be absolutely necessary for questions related to a change of the financial framework⁴¹ and in case of a further transfer of powers to the European institutions. The Czech President Klaus expressed his agreement with this idea, but stated that he would go even further, while every important piece of legislation and not only majority voting extensions should be endorsed by national parliaments.⁴² The final mandate does not tackle with the extension of the qualified majority voting in great detail and it rather sets limits to extensions in those areas, where unanimity is considered absolutely essential, such as taxation or budgetary issues. The overall Czech stance has not changed much since the last issue of this analytical report⁴³, where detailed analysis of QMV can be found. The ODS similarly rejects any tax harmonisation or majority voting in CFSP but, it uses different arguments: it rejects the Czech membership in the core of the EU if a multi-speed Europe shall become reality and it stresses that, if the Czech Republic formed a part of the core, exactly these areas (taxes and CFSP) would be subject to a further communitarisation.⁴⁴

Finally, the Czech Government prefers equal parities in majority voting (population share and number of Member States). Although originally some members of the government voiced the conviction that the Nice system was more favourable for the Czech Republic,⁴⁵ the stress gradually shifted to minor modifications of the system presented in the draft Constitutional Treaty. Both Prime Minister Špidla and Foreign Minister Svoboda expressed their understanding of reasons for a change-over from the Nice system to a new one and pointed at the almost equal standing of Poland and Germany under the Nice rules, which do not respect the differences in terms of population of these countries.⁴⁶ Two well-known Czech proposals suggested a double majority (an equal share of population and number of EU Member states), either double 50%, or double 60% threshold, both of which would distribute the benefits from the new system more equally among bigger and smaller Member States.

⁴¹ Quite surprisingly, the extension of budgetary powers of the European Parliament were never taken up as an issue of contention. The Czech discourse about EP usually remained at a rather more superficial level, with the Government stressing the democratic nature of the EP and welcoming its strengthening.

⁴² "Klaus nechce evropskou ústavu" (Klaus Does Not Want the New European Constitution). *Právo*, CTK, <http://www.novinky.cz/02/14/39.html>

⁴³ See: Kratochvíl, Petr, National Report Czech Republic, in: Positions of 10 Central and Eastern European Countries on EU institutional reforms: Analytical survey, Université Catholique de Louvain, Louvain-la-Neuve / Brussels, June 2003; http://www.euro.ucl.ac.be/recherche/gepue/ceec1_fichiers/NR%20Czech%20Republic4.pdf

⁴⁴ Zahradil, Jan: Být, či nebýt v tvrdém jádru Unie (To Be or Not to Be in the Core of the Union). *Respekt*, 5 January 2004

⁴⁵ Even Prime Minister Špidla jumped on the bandwagon. Cf. Špidla, Vladimír: "Rím byl dobrý začátek" (Rome Was a Good Start). *Právo*, 6 October 2003,

http://www.socdem.cz/vismo_archiv/dokumenty2.asp?id=352139&id_org=422010

⁴⁶ Ibid.

The opposition rejected the very idea of comparison between the Nice system and the provisions of the draft Constitutional Treaty, because of the perceived fundamental flaw that the government allegedly made: The Czech Government allegedly concentrated on twiddling with the draft Constitutional Treaty instead of comparing the draft with the Nice Treaty, which would, according to the opposition, reveal an evident loss of power of the Czech Republic.⁴⁷ Thus, the divide between the two political sides became extremely pronounced as to the question of majority voting. The government believed Poland and Spain to be too obstinate, whereas the ODS extolled the two countries for the very same behaviour.

3. The ratification process

A variety of views concerning the ratification of the Constitution was unveiled during a conference on the Czech debate about the draft Constitutional Treaty organised by the Institute of International Relations in September in September 2003.⁴⁸ During this conference it became rapidly clear that we cannot talk about simple dichotomy of views (parliamentary ratification versus referendum), but about at least three possible options: (1) normal approval by the Parliament which is envisaged for international treaties or (2) majority voting in the Parliament with a higher threshold that would normally apply to changes of the Czech Constitution or (3) referendum. Even referendum itself can be conceived as (3a) binding or (3b) non-binding.

At first, the Czech Government tried to remain non-committal, but during the parliamentary debate about the final mandate for the Czech negotiators at the IGC, the Prime Minister Špidla stated that considering the significance of the document the government will *‘ask the people of the Czech Republic about their opinion.’*⁴⁹ The Prime Minister also made known that his government would table a motion concerning a general referendum, because so far only one particular referendum about the EU accession was held. This abrupt move was quite surprising when only one day before the parliamentary hearing, Mr. Špidla refused to answer the question about the necessity of referendum directly referring to the parliamentary debates and to the still unknown nature of the EU Constitution.⁵⁰

⁴⁷ Address of MP Jan Zahradil, 21st session of the Chamber of Deputies. 7 October 2003, <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021009.htm>

⁴⁸ Conference „From the Convention to the Accession: The Czech Debate About the European Constitutional Treaty”, 18 September 2003, <http://www.czechembassy.org/www/mzv/default.asp?id=20553&ido=1&idj=1>

⁴⁹ Address of Prime Minister Vladimír Špidla, 21st session of the Chamber of Deputies. 7 October 2003, <http://www.psp.cz/eknih/2002ps/stenprot/021schuz/s021004.htm>

⁵⁰ Špidla, Vladimír: “Rím byl dobrý začátek” (Rome Was a Good Start). *Právo*, 6 October 2003, http://www.socdem.cz/vismo_archiv/dokumenty2.asp?id=352139&id_org=422010

The opposition, unlike the ruling parties, is quite clear in its support for a referendum. This position is a natural consequence of the belief of the ODS that the Constitutional Treaty in its current form fundamentally changes the nature of the EU. Hence, Czech citizens agreed in the last referendum on a membership in a substantially different organisation than that which might be erected upon the new Constitution. Their stance coincided with that of the President who also supports popular voting on the issue.⁵¹

There are, nevertheless, two kinds of obstacles to an adoption of the Constitutional Treaty by referendum. First and foremost, it is doubtful whether majority of population would approve the document. The referendum about the Czech accession to the EU became a nightmare for some politicians as it remained unclear until the very last moment how many people would (not) take part in the referendum. We would be overly optimistic to believe that the Czech attitude towards the EU in general has changed to a more positive assessment since then. Quite to the contrary, the Convention was perceived as some remote, unimportant debating circle without any impact on the life of ordinary citizens. More to that, the first months after the enlargement will most probably witness further decrease of popularity for the EU, because short-term drawbacks, which were not mentioned before the accession referendum due to the fear that highlighting them might tip the balance towards a negative result, will come into everybody's view.

Second, legal questions remain obscure as well.⁵² It is still not clear whether any change of the Czech Constitution (Art. 10 and 10a) would be necessary for the adoption of the Constitutional Treaty or whether the current wording is sufficient. If we take into account a strong opposition to the Treaty on the side of the ODS and the KSCM, it might drag on for months and a judgment of the Constitutional Court might be required to stop the strife.⁵³

4. Elections to the European Parliament

All five most important parties took the challenge of the upcoming elections to the EP seriously and the lists of candidates they offered show that the EP elections can become hitherto another EU-related issue of contention, where high-profile politicians are involved. The dividing line remain the same as in other issues concerning the EU: it lead between the three ruling parties and the opposition. The CSSD leader for the EP elections is Mr. Libor Roucek, a member of parliament and of both the

⁵¹ Ibid.

⁵² For a similar view see Král, David: The Czech Reaction to the IGC Failure – Disillusion or Indifference? Europeum (Institute for European Policy), http://www.epin.org/pdf/BC_Kral.pdf

⁵³ A graphic example of the variety of views of legal procedures required for the Constitution to be approved is the discussion within the above-mentioned conference (Conference „From the Convention to the Accession: The Czech Debate about the European Constitutional Treaty”, 18 September 2003, <http://www.czechembassy.org/www/mzv/default.asp?id=20553&ido=1&idj=1>)

Foreign Committee and the Committee for European Integration and one of the best experts of the CSSD on European Affairs.⁵⁴ The CSSD faced unexpected difficulties when some of its top candidates such as the former Foreign Minister and the former President of the United Nations General Assembly Jan Kavan refused to take part in the elections, because they were not satisfied with their positions on the list.⁵⁵

The ODS' leader on the list of candidates is one of the well-known Czech Eurosceptics (or Eurorealists, to use the term the ODS itself prefers) Mr. Jan Zahradil. Mr. Zahradil is member of parliament, one of the three Czech *conventionnels* and the first vice-chairman of the party. In fact, Jan Zahradil is sometimes considered as the most influential ODS member. As the current chairman he is a rather less pronounced figure and member of the less important upper chamber of the parliament.⁵⁶ The communist candidate number one, Mr. Miloslav Ransdorf is also a high profile politician who belongs to the reformist wing of the party. He was one of those few party leaders who disagreed with the negative stance of the communist party on EU accession. In similar vein, the KDU-CSL⁵⁷ and the US-DEU⁵⁸ also presented their lists with famous names on the top.

Virtually all of the top candidates - no matter from what party - have at least some experience with the EU, notably as observers in the European Parliament or members of Foreign Affairs Committees of the Czech Parliament. Some of the electoral leaders took active part in the work of the Convention (Mr. Zahradil, Mr. Zieleniec), whereas other candidates have had good ties to the Committee of the Regions.

The central issues of the debate are clear and they are more or less identical with the old arguments about the desirable future course of the EU. The ODS fights against an elitist and bureaucratic unification of Europe and, instead of it, it prefers a liberal free trade union of largely autonomous nation states. The KSCM defends some of those features of the EU that the conservatives despise and the Communists are highly diffident of the "neo-liberal approach" which is, according to the KSCM, prevalent in Europe.⁵⁹ On the other hand, the Communists share the conservatives' fears of a dissolution of nation states.

⁵⁴ Kandidátní listina CSSD pro volby do EP (CSSD List of Candidates for the Elections to the EP).

http://www.cssd.cz/vismo/index.asp?tz=2&?u=422010&id_org=422010&id=374917

⁵⁵ Press Conference of the CSSD, 14 December 2003,

http://www.socdem.cz/vismo_archiv/dokumenty2.asp?id=373430&id_org=422010

⁵⁶ Volby do EP: Kandidáti ODS do EP (The EP Elections: EP Candidates of the ODS). <http://www.ods.cz/>

⁵⁷ Kompletní kandidátka KDU-CSL do voleb do Evropského parlamentu (The Complete Candidate List of the KDU-CSL for the Elections to the European Parliament). <http://www.kdu-csl.cz/default.asp?page=311&idr=135&IDCI=11762>

⁵⁸ Naši lídri do Evropského parlamentu (Our leaders for the European Parliament). US-DEU,

<http://www.unie.cz/article2.jsp?a=lidri>

⁵⁹ S Vámi a pro Vás, doma i v Evropské unii. (Návrh tezí programu KSCM pro volby do Evropského parlamentu) (With You and For You, at Home and in the EU – Draft Programme of the KSCM for the Elections

There are, of course, other, more trivial issues present in the electoral debate as well. For example, much time has been spent over the question of salaries of future Czech MEPs who will probably earn much less than their colleagues from other countries.⁶⁰ There was also an interesting debate about the affiliation of the Czech parties to different party groups in the EP. This may seem quite paradoxical, but in spite of sharply divergent views on European integration, both the ODS and the KDU-CSL are thus probably going to join the same party, the EPP.

5. Awareness of the IGC

The awareness of EU-related matters has been slightly improving since the last report⁶¹. The parliament, political parties, various think-tanks⁶² and academia have been observing the evolution of the IGC discussions quite closely, yet the awareness of the issues at stake at the IGC remains extremely low among a wider public. In fact, ordinary people often cannot tell the difference even between the European Council and the European Commission, not to mention questions such as what the aim of the last IGC is or what major changes the Constitutional Treaty introduces.

Among a wider public, in last months concerns seem to prevail over positive expectations with regard to the EU. According to a recent Europe-wide poll, the percentage of the Czech population who are afraid of “building Europe” is the highest among all the candidate countries, with 50% of the population expressing their fears.⁶³ A similarly high level of scepticism among the Czechs is visible as regards the Constitution. The Czech Republic, together with Lithuania, has got the lowest percentage of those who support the adoption of the European Constitution (57%). Czech citizens are also less willing to participate in the EP elections than most others and only slightly more than one fifth are determined to cast their votes.⁶⁴

On the contrary, the government, the parliament and academia focused much of their attention on the IGC and we could even speak about a “domestication” of European affairs, which have become a part

to the European Parliament),

http://www.kscm.cz/news_detail.asp?menu=1&necId2=286&necId=286&newId=1214

⁶⁰ See: television discussion at *Partie*, TV Prima, 1 February 2004

⁶¹ See: Kratochvíl, Petr, National Report Czech Republic, in: Positions of 10 Central and Eastern European Countries on EU institutional reforms: Analytical survey, Université Catholique de Louvain, Louvain-la-Neuve / Brussels, June 2003; http://www.euro.ucl.ac.be/recherche/gepue/ceec1_fichiers/NR%20Czech%20Republic4.pdf

⁶² Among these think-tanks, especially Europeum, Institute for European Policy

(<http://www.europeum.org/EN/default.asp>) and the Institute of International Relations (www.iir.cz) should be undoubtedly mentioned.

⁶³ Eurobarometer 2003.4, Public Opinion in the Candidate Countries,

http://europa.eu.int/comm/public_opinion/archives/cceb/2003/cceb2003.4_full_report.pdf

⁶⁴ Ibid. But for somewhat different results see Občan o volbách do Evropského parlamentu (The Citizens' view of the Elections to the European Parliament). Centrum pro výzkum veřejného mínění,

<http://www.cvvm.cz/index.php?disp=zpravy&r=1>

of everyday political debates with consequences for domestic politics. The reasons for this shift may be manifold: The enlargement date is approaching; so are the EP elections; the government has to defend its two subsequent nominations for a European commissioner, and, at the same time, it prepares its position for the re-launch of the IGC, etc. All these issues are an integral part of controversies between the government and the opposition, but there are also major tensions within the government itself.

Time and again, the chamber of deputies of the parliament was witness to heated debates over issues concerning the EU. One of the most stormy debates took place when the government presented its final mandate for the IGC negotiations in early October 2003, when the MPs contributed more than seventy times to the discussion.⁶⁵ The Senate (upper chamber of the parliament) that belonged to the most active political institutions in respect to the Convention has slowed its pace after the end of the Convention's work, but it still offers insightful weekly monitoring of European affairs.⁶⁶

All this has attracted the attention of media, too, which makes the current media coverage substantially different from the situation occurred just several months ago.⁶⁷ For example, one of the leading newspapers, *Lidové noviny*, has published more than four hundred articles about the Convention and the IGC in the course of the last six months.⁶⁸ Quite naturally, the majority of articles about the European Constitution was published during two short periods of time, i.e. in October in connection with the Rome IGC summit and then in December due to the failure of the Conference. Recently, another cluster of articles concentrates on the nomination of the Czech commissioner.

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⁶⁶ Monitoring: The Development of the Debate About the Future of Europe, Senate of the Parliament of the CR, <http://www.senat.cz/ISO-8859-2.cgi/evropa/monitoring.html>

⁶⁷ Cf. Kratochvíl, Petr: National Report (Czech Republic). CEEC Debate Project, http://www.euro.ucl.ac.be/recherche/gepue/ceec1_fichiers/NR%20Czech%20Republic4.pdf

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National Report Estonia

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1. Outcome of the Intergovernmental Conference

Overall, the Estonian government supported the adoption of the draft Constitutional Treaty with minor changes at the Intergovernmental Conference. In its White Paper on the draft Constitutional Treaty presented to the Estonian Parliament in September 2003, the government argues that the text of the treaty, born out of 18 months of discussions, responds to the tasks established for the Convention and constitutes a well-balanced compromise that constitutes a good starting point for the work of the IGC.⁶⁹ At the same time, the government stated that the draft treaty includes provisions that do not completely correspond to Estonia's interests and called for reopening certain sections of the treaty for new negotiations.⁷⁰ In particular, this refers to areas where working groups were not organised and substantive discussion remained less developed (institutional issues and part 3 of the draft treaty). Regardless of these shortcomings, the end result produced by the Convention should be regarded as a „generally accepted and politically sensitive compromise.“ Therefore, discussion at the IGC should be constrained to a limited number of areas. Opening too many areas could bring about new negotiations also in areas where the current provisions of the draft Constitutional Treaty are in accordance with Estonia's preferences. Therefore, the government can request amendments only in carefully selected sections where changes are necessitated by important national interests and where it is possible to find sufficient support from the other countries.

The document lists articles and issues in the draft Constitutional Treaty that the government deems necessary to raise at the IGC. In the field of institutions, the document calls for preserving the current allocation of seats in the European Parliament, according to which each member state has at least 5 seats. It states that Estonia does not support the institutionalisation of the European Council and requests that the principle of unanimity continue to be observed in European Council decision-making. It calls for greater precision in defining the rotation principles of the Council presidency and argues that the principle of „one commissioner per member state“ should be clearly spelled out in the treaty. The government wishes to preserve the Nice system of qualified majority voting, opposes the use of QMV in CFSP, and is opposed the *passerelle* clause. In policy questions, the government insist that tax and social policy matters continue to be decided by unanimity. It requests a clarification of the responsibilities of the Foreign minister and of CFSP institutional setting, and expresses opposition to

⁶⁹ Estonian government's White Paper on the Draft Constitutional Treaty submitted to the Parliament on September 4, 2003, <http://www.eib.ee> (Euroopa Tulevik)

⁷⁰ Ibid.

enhanced cooperation in common defence and military cooperation. Altogether, the document listed 17 issues that should be raised at the IGC.

Coalition building

The Estonian government did not change its positions in any major issues during the IGC. Estonia was quite active in coalition-building. The partners, however, varied according to issues. In institutional questions (such as the composition of the Commission and voting in the Council) Estonia sided with other small states; in the field of the monetary policy, where Estonia has supported the conservative line, the main allies were the Netherlands and Ireland. In the area of taxation, Estonia's status-quo oriented position has led to an alliance with the UK, Slovenia and Poland. Overall, Estonia likes to emphasise its closeness to British positions. In particular, a joint article by Estonian and British Prime Ministers in the Financial Times (February 16, 2004) where they declared support for intergovernmental principles and opposed deeper integration areas such as taxation or social policy, was seen as a statement of alliance between an old and a new member-state.

Country's position on the summit in Brussels, 12/13 December 2003

After the unsuccessful summit in Brussels in December 2003, the government assumed a pacifying stance, arguing that extensive discussions would lead to a better treaty and it is not wise to make quick compromises that harm essential national interests of some member states.⁷¹ According to Prime Minister Juhan Parts, ending the negotiations quickly had never been a goal in itself. Estonia had from the beginning wanted a good, balanced and well-formulated treaty. *“We do not think that the talks have been a failure, rather we need more time to reach a consensus on such important questions,”* said Parts.⁷² The Prime Minister assured the electorate that the results will not affect the pace of enlargement because necessary changes in the institutional structure had already been made at Nice. *“Estonia and nine other nations will accede to the EU based on this treaty next year as was planned. The new Constitutional Treaty would not have taken effect until 2007 at the earliest. Thus, at this moment nothing will change for us,”* assured the Prime Minister.⁷³ In more recent statements, however, Parts has claimed that in the interest of clear and effective decision-making in the EU, the Constitutional Treaty should be adopted as soon as possible.⁷⁴

Opposition parties and politicians were more critical of the results of the summit. Former Foreign Minister Toomas Hendrik Ilves from the Social Democratic Party has been particularly keen on

⁷¹ Parts, Juhan, Euroopa ei saa kunagi valmis, SL Õhtuleht http://www.vm.ee/est/euro/kat_303/4250.html

⁷² See Ministry of Foreign Affairs press release “Parts: The new constitutional treaty will take more time,” December 13, 2003 (<http://www.vm.ee>)

⁷³ Ibid.

⁷⁴ Speech by Prime Minister Juhan Partsi to the Estonian Parliament introducing the draft of the document Government's policy towards the European Union 2004-2006, April 6, 2004.

pointing out the dangers associated with the possible emergence of a two-speed Europe. In an article published in one of the main dailies, Ilves argued that the IGC produced a bad result for Europe as well as for Estonia.⁷⁵ Ilves claimed that inability to reach a compromise at the IGC will make it more difficult to agree on the EU budget and may threaten the interests of acceding states. Most importantly, the collapse of the talks will result in the emergence of a core Europe, consisting of 6-10 member-states – those who are willing to proceed with the Constitutional Treaty, who support an ambitious foreign and security policy and integrated economic and social policies. Ilves criticises the Estonian government for its intergovernmentalist status-quo oriented approach and argues that due to its obstructive attitude, Estonia will not be included in the „core.“

2. IGC: controversial issues

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President of the Council/EU Minister of Foreign Affairs

There has been little discussion in Estonia regarding the functions of the President of the Council, as most of the debate has focused on opposition to the creation of a permanent Presidency. Along with other smaller states, Estonia argues that rotation and equality of member-states must remain central elements in organising the Council. The creation of the position of the European Minister of Foreign Affairs is generally supported, but Estonian government finds that the articles of the draft Constitutional Treaty defining the competencies of the Foreign Minister and his/her functions need to be more clearly formulated to avoid overlapping competencies.⁷⁶ In particular, articles I-27, III-197 should be reformulated to clarify the functions of the Foreign Minister and the institutional setting of the CFSP. The need for greater precision in defining the function of EU foreign policy structures was also mentioned by Foreign Minister Kristiina Ojuland in her address to the Estonian parliament on the main guidelines of Estonian foreign policy.⁷⁷ Ojuland has argued that EU Foreign Minister should be a full member of the European Commission and report, along with other Commissioners, to the European Parliament. Ojuland does not support the clause in the draft treaty according to which the Foreign Minister would be responsible for chairing the External Relations Council. According to Ojuland, such mixing of functions would constitute a serious legal contradiction.⁷⁸

⁷⁵ Ilves, Toomas Hendrik, „Läbikukkumine Brüsselis ja ohud Euroopas“ (Failure in Brussels and dangers in Europe) in *Postimees*, December 19, 2003.

⁷⁶ Estonian government's White Paper on the Draft Constitutional Treaty submitted to the Parliament on September 4, 2003, <http://www.eib.ee> (Euroopa Tulevik)

⁷⁷ Speech by Foreign Minister Kristiina Ojuland at the Estonian Parliament on the main foreign policy guidelines of the Republic of Estonia, November 4, 2003.

⁷⁸ “All member-states must be equal in the decision-making process,” an interview with Foreign Minister Kristiina Ojuland in *Eesti Päevaleht*, October 14, 2003.

Commission

The Estonian government remains strongly committed to the principle of “one commissioner one country.” This position has been repeatedly expressed by Estonian representatives in the Convention and at the IGC, in speeches by Prime Minister Juhan Parts and Foreign Minister Kristiina Ojuland, and in key documents such as White Paper on the Draft Constitutional Treaty and the Government’s EU policy 2004-2006. The importance attributed to the equal representation in the Commission reflects the government’s concerns about equality of old and new, big and small member-states. Most likely, the demand for Estonia’s own commissioner is also a response to relatively high levels of domestic euroscepticism, as “fighting for Estonia’s interests” is believed to score points with the electorate.

In a speech introducing the key principles of the government’s EU policy to the Estonian Parliament, Prime Minister Juhan Parts claimed that guaranteeing equal opportunities to all member-states is and must remain one of the most important pillars of the EU, a principle that cannot be open to bargaining. Because of the central role of the Commission in the EU decision-making apparatus, only equal representation in the Commission ensures that all member-states, their enterprises and citizens are treated equally.⁷⁹ Similar ideas were expressed by Foreign Minister Kristiina Ojuland in her speech to the Estonian parliament on the main guidelines of Estonian foreign policy. Ojuland explicitly linked Estonia’s demand for a commissioner to the government’s intergovernmentalist position according to which the EU must continue to evolve as a union of states where the equal treatment of all members is guaranteed.⁸⁰ The government does not regard the size of the Commission as a threat to effectiveness. In a statement delivered at the Convention on June 5, 2003, Hendrik Hololei, representative of the government, argued that the cabinets of many member states are bigger than the future Commission and, in any case, effectiveness cannot be considered to be a more important goal than democracy and equality.

The government’s White Paper on the Draft Constitutional Treaty, presented to the parliament in September 2003, argues that the principle of “one commissioner one country” should be explicitly spelled out in the text of the Constitutional Treaty. Estonia must open the issue at the IGC and demand that all commissioners have equal rights and opportunities to participate in decision-making.

The government’s demand for a commissioner has generally been supported by other political parties and the society in general. Partly, the lack of criticism reflects the generally narrow base of the future of Europe debate in Estonia. However, some opposition politicians and journalists have criticised the

⁷⁹ Speech by Prime Minister Juhan Parts to the Estonian Parliament introducing the draft of the document Government’s policy towards the European Union 2004-2006, April 6, 2004

⁸⁰ Speech by Foreign Minister Kristiina Ojuland at the Estonian Parliament on the main foreign policy guidelines of the Republic of Estonia, November 4, 2003.

intergovernmentalist logic of the argument that Estonia needs a commissioner in order to better defend its interests or increase its international visibility.⁸¹ The most prominent critic of the intergovernmentalist approach, former Foreign Minister Toomas Hendrik Ilves, has published several articles in which he reminds the readers that a commissioner represents the interests of Europe, not of an individual state or political party. Ilves claims that Estonia's opposition to deeper integration may become an obstacle to being granted a post of an influential commissioner in a key area. Instead of constantly calculating Estonia's own gains and losses, the media and society should pay more attention to the positions of Estonia's candidate in key issues relevant to Europe as a whole, such as the possible emergence of a two-speed Europe, the future of EU enlargement, EU-US relations, etc.⁸²

Definition of the qualified majority voting

The Estonian government opposes the definition of the qualified majority voting included in the draft treaty on the ground that it reduces the weight of Estonia's vote in the Council. The White Paper on the Draft Constitutional Treaty explains that in the Convention, Estonia favoured preserving the Nice system of calculating the QMV. The new system proposed in the draft treaty is more simple but would reduce the weight of small states. According to the Nice system, Estonia would have 4 votes out of 450, while the new system would grant Estonia only 1.4 votes out of 510. At the same time, the document admits that the influence of a small member state depends on many other factors in addition to voting weights and therefore, raising this issue at the IGC is not of critical importance. Estonia should support preserving the Nice system, if such a proposal is made by other states. If this approach does not find enough support, Estonia would also agree to a system where states and population have equal weight (60:60 or 50:50).⁸³ The principle that Nice solutions are preferable has also been expressed by Foreign Minister Kristiina Ojuland on several occasions.⁸⁴

Extension of qualified majority voting:

While the Estonian government is generally in favour of extending QMV in the Council, it does not support extending QMV to policy fields "central to carrying out the core functions of a state" such as taxation, social policy or foreign and security policy.⁸⁵ Estonia also supports preserving the existing

⁸¹ Andrei Hvostov, "Eurovoliniku raske sünd" (The difficult birth of a EU Commissioner) in Eesti Ekspress, October 8, 2003

⁸² Toomas Hendrik Ilves, „Kallast tuleb toetada“ (Kallas must be supported), in Eesti Päevaleht, January 22, 2004.

⁸³ Estonian government's White Paper on the Draft Constitutional Treaty submitted to the Parliament on September 4, 2003, <http://www.eib.ee> (Euroopa Tulevik)

⁸⁴ Speech by Foreign Minister Kristiina Ojuland at the Estonian Parliament on the main foreign policy guidelines of the Republic of Estonia, November 4, 2003.

⁸⁵ Estonian government's White Paper on the Draft Constitutional Treaty submitted to the Parliament on September 4, 2003, <http://www.eib.ee> (Euroopa Tulevik)

“emergency break” mechanism in CFSP.⁸⁶ The government’s White Paper on the draft Constitutional treaty also opposes the *passerelle* clause, according to which the European Council has the right, by unanimous vote, to change the voting procedure and extend QMV into new areas (I-24 lg4; III-62, III-63). Estonia is especially concerned about the implications of *passerelle* in the fields of administrative cooperation, tax fraud and tax evasion. Estonia regards changing voting procedures as a constitutional question – such fundamental decisions cannot be made by simplified procedures (unanimous vote in the European Council). Estonia believes that QMV can be extended only by amending the treaty, convening an intergovernmental conference and ratifying changes in the parliaments of all member states. Estonia, therefore, seeks the omission of I-24 incision 4 from the text of the treaty.

European Parliament

Estonia supports the proposals concerning the budgetary and financial principles (Art. I-52 of the draft Constitutional Treaty). Estonia also supports the procedural provisions in Art. III-310.⁸⁷

3. The ratification process

The question of ratification has not been discussed very actively. A referendum is formally not required and there is a general sense that organising a referendum would not be feasible, given the highly specific nature of the Constitutional Treaty. In light of voter fatigue (accession referendum was held in September 2003 and EP elections are coming up in June 2004) and the relatively high level of popular euroscepticism in Estonia, the referendum could produce a low turnout or an undesirable result. There are also no significant groups demanding a referendum. In all likelihood, ratification of the treaty in the parliament will not pose any significant problems. The governing coalition is strong and pro-European parties have a clear majority. Various civil society organisations, however, have made a plea for maximum openness and transparency in domestic debates about the IGC and the ratification of the treaty in the Parliament. The Convention Contact Group of Estonian civil society organisations has sent a letter to Prime Minister Parts, demanding that the discussion and ratification be carried out in accordance with principles of participatory democracy laid out in article I-46 of the draft Constitutional Treaty stipulating regular, transparent and open dialogue with the public.⁸⁸

⁸⁶ Official letter no 6.1/11397 of Estonian Ministry of Foreign Affairs to Italian Ministry of Foreign Affairs, 21st November, 2003

⁸⁷ Official letter no 6.1/11397 of Estonian Ministry of Foreign Affairs to Italian Ministry of Foreign Affairs, 21st November, 2003

⁸⁸ See Convention Contact Group of Estonian Civil Society organizations, www.kontaktgrupp.ee

4. Elections to the European Parliament

As in many other accession countries, awareness of European Parliament elections remains low and most observers predict a relatively low turnout. To date, most of the discussion has focused on electoral procedures and specifically, the controversy over “open” and “closed” party lists. On February 11, 2004, the Estonian Parliament passed amendments to the law on European Parliament elections replacing the „closed lists“ system where votes are cast for a party list with an system of „open lists“ where candidates in a party list are re-ranked according to the number of votes received. The opponents of the decision argued that changing the rules a few months before the elections is not fair and that the candidate-centred open list system allows parties to manipulate voter preferences in a “new and unfamiliar game.” For instance, Rein Lang from the Reform Party claimed that Estonian voters do not yet understand what the European Parliament is and a system of open lists, where „important people hang their posters on the wall and start talking about our national interests in the European Parliament“ amounts to deceiving the people.⁸⁹ On March 3, the president refused to sign the amendments into law, arguing that the open list system is less transparent, as it offers incentives to list as vote-catchers prominent politicians who do not intend to quit their current jobs and work in the EP.⁹⁰ These warnings did not prevent the Parliament from passing the bill for a second time and in mid-March, the president signed the open-lists bill into law.

By mid-April, most major parties had held internal elections to determine the list and ranking of candidates and had presented their lists. The list of the major parties include a number of high-ranking politicians, such as speaker of the Parliament Ene Ergma, former Prime Minister Mart Laar, former Foreign Minister Toomas Hendrik Ilves, and Chairman of the Pro Patria Union Tunne Kelam. However, about half of the names on the lists are those of less known or junior politicians. The lists also include some celebrities, such as Estonia’s world-famous decathlete Erki Nool (Pro Patria Union) or supermodel Carmen Kass (Res Publica). While these nominations have been the topic of considerable media attention, the general attitude remains earnest. There are serious concerns, however, that prominent politicians listed as top candidates of their parties do not plan to assume a post in the European Parliament if elected.

To date, there has been little substantive discussion about the policy positions and preferences of the candidates, although several parties have adopted programmes outlining their European policies. The dominant coalition party Res Publica has adopted a 15-page programme under the slogan „Let’s break through“ calling for economic growth, reducing bureaucracy, and moving towards a knowledge-based

⁸⁹ Rein Lang, “*Koalitsioonipoliitikud paluvad presidendilt abi*” (*Coalition politicians ask for the President’s help*), in *Postimees*, February 14, 2004

⁹⁰ Interview with the President in *Postimees*, March 8, 2004.

society. As expected, the programme emphasises Estonia's independence and the rights of small states. Most likely, the contours of the electoral debate will be quite similar, focusing on general issues - such as economic growth, well-being and competitiveness - on a scale beyond the scope or interest of most voters. Such rhetoric will inevitably be accompanied by pledges to defend Estonia's rights and interests in Europe.

5. Awareness of the IGC

The Estonian government presents regular reports and overviews of its positions to the Parliament. The Government's White Paper on the draft Constitutional Treaty, outlining the Government's positions for the IGC, was discussed and approved in the Parliament in September 2003. Overall, however, the Parliament and its Committee on European Affairs have low visibility in EU-related discussions. There is a perception that the government tends to monopolize information, expertise and decision-making in conducting Estonia's EU policy. The parliament has not been active in promoting dialogue with the public. In the context of the emphasis on E-governance and the generally highly-developed IT infrastructure of Estonia's public organisations, the EU section of the Parliament's website remains curiously undeveloped and uninformative, containing virtually no information on the IGC. The parliament's main public event in the EU affairs, a conference series entitled *Estonia and the European Union* seems to have lost momentum, as the last conference was held in 2002.⁹¹ However, the government emphasises the need to more actively involve the Parliament. In his speech to the Parliament in April 2004, Prime Minister Parts argued that the Parliament must assume a more active role in shaping Estonia's positions regarding the EU and referred to changes in legislation that make greater involvement possible. These changes will result in increased work load and responsibility, as *"every member of the Parliament must become an expert in EU-related issues."*⁹²

Interest groups and civil society organisations have had low visibility in the debate and generally, have not contributed to shaping Estonia's positions at the IGC. One exception is the Convention Contact Group of Estonian Civil Society organisations that met with politicians to discuss the IGC and presented its positions to the Estonian delegation at the IGC.⁹³ Again, the Estonian government has sought to encourage public participation in formulation of Estonia's objectives and positions in EU. The draft of the document "Government's EU policy 2004-2006" that stipulates the main guidelines of Estonian policy for three years, was presented to a range of stakeholders, interest groups and public

⁹¹ See the Parliament's webpage at www.riigikogu.ee (Estonia and the European Union)

⁹² Speech by Prime Minister Juhan Parts to the Estonian Parliament introducing the draft of the document Government's policy towards the European Union 2004-2006, April 6, 2004.

⁹³ See Convention Contact Group of Estonian Civil Society organizations, www.kontaktgrupp.ee

associations on March 11. However, interest in the document remained weaker than anticipated, with only 18 groups offering comments during the first month.⁹⁴

Media attention to the IGC has been limited. Partly, this can be attributed to the fact that accession-related issues dominated the Estonia's EU agenda and public forums up to the accession referendum in September 2003. Until that point, very limited attention was paid to the Future of Europe debate and the Convention. As can be expected, shifting the attention of the public to a highly complex range of issues associated with the draft Constitutional Treaty has not been easy. There was also the perception that after months of pre-referendum campaigns the electorate was "saturated" with EU-related information. Still, interest in the IGC was relatively lively in the first month. When the chances of quick progress became slim, the media seemed to lose interest. Most of the articles in the press were written by leading government-related EU experts and competent civil servants, such as Hendrik Hololei, composed with the obvious objective of "keeping the public informed and calm." After the collapse of the talks, the government's pacifying rhetoric contrasted with criticism from some opposition politicians and journalists. The discussion, however, has had a very narrow base partly because of the lack of competent writers on the topic.

⁹⁴ Speech by Prime Minister Juhan Parts to the Estonian Parliament introducing the draft of the document Government's policy towards the European Union 2004-2006, April 6, 2004.

National Report Hungary

by Dr. Krisztina Vida, Institute for World Economics of the Hungarian Academy of Sciences

1. Outcome of the Intergovernmental Conference

Hungary as a would-be new member has from the outset supported the idea of establishing a Constitutional Treaty for the European Union. Consequently the Hungarian members of the European Convention played a very active, innovative and cooperative role during the 16 months of preparatory works. After the Draft Treaty Establishing a Constitution for Europe was adopted by the European Convention, the Hungarian government expressed its positive opinion concerning the text as a whole, however Hungary never wanted the IGC to adopt the document unchanged. By sticking to the same basic principles of the reform as during the Convention (increasing transparency, democracy and efficiency of the Union institutions and decision-making coupled with efficient action on the international stage; preserving/extending the classical Community method based on the institutional balance; equality of all Member States) Hungary highlighted four additional goals to be achieved at the IGC:

- The insertion into the Constitutional Treaty the protection of collective rights of national and ethnic minorities, preferably into article I-2 laying down the Union's values.
- The preservation of the system one Commissioner per Member State coupled with a better system of its presidency (providing an equal access to this post).
- The use of any forms of enhanced cooperation (however legitimate) should never lead to the dismemberment of the Union. Therefore the threshold of countries launching enhanced cooperation should be raised and special measures should be taken, in order to help the „outsiders” to join such groups as soon as possible.
- Hungary is in favour of a highly efficient common foreign and security as well as defence policy endowed with common civil and military capabilities. The EU shall be able to act as one, without any prejudice or duplication vis-à-vis the NATO obligations of many Member States.

Hungary expressed its wish to fight for these issues, without however wanting to break any consensus that would emerge among the overwhelming majority of the 25. As regards the timing and the

projected outcome of the IGC the official Hungarian opinion was that the IGC should be able to adopt a lightly modified Constitutional Treaty for Europe (especially containing the mentioned modifications), and namely as soon as possible. At the same time the quality of the outcome has been more important for Hungary than keeping to a strict deadline.

Coalition building

The position of Hungary has not changed essentially during the first months of the IGC, however Hungary was ready to make compromises too. One of the greatest diplomatic successes for Hungary was that the idea of including the protection of minority rights (initially supported only by a few Member States) was backed by the Italian presidency thanks to which the following formula of Article I-2 was proposed and finally adopted by the 25 in Rome: *„The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minority groups. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.“*⁹⁵ This required some compromise on the Hungarian side (the notions of „collective“ as well as the distinct notions of „national and ethnic“ fell out) but Budapest was ready to accept this solution.

Beyond the four mentioned priorities (minority rights, composition of the Commission, defence policy, enhanced cooperation) Hungary joined those countries which pushed for extending the competence of the European Court of Justice over the institutions-related decisions of the European Council and urged the explicit listing of all official languages of the EU in the Constitutional Treaty (because Article IV-10 stipulates only the languages in which the Constitution was drawn up). A further point was the question of „*invocatio Dei*“ and/or the mentioning of Christianity. This issue is wholeheartedly supported by the opposition, while the official Hungarian position is to join the majority opinion (if the majority is pro the Hungarian government is in favour, if the majority is against, Hungary does not insist).

From the point of view of coalition-building Hungary was in a relatively favourable position because most of the Hungarian demands were shared by many other acceding or old Member States. This was especially the case as regards maintaining the „one Commissioner per Member State“ principle or regarding the avoidance of duplications with NATO in defence policy. Regarding the issue of minorities Hungary was able, as it was shown, to successfully lobby at the Italian presidency to include this item into their proposal. Thus Italy became Hungary’s strategic ally in this matter, although of course it could not have happened without the support of some countries such as Germany

⁹⁵ IGC 2003 – Intergovernmental Conference (12-13 December 2003) Addendum 1 to the Presidency proposal. CIG 60/03, ADD1, PRESID 14, p. 5.

or Austria and the compromises made by France or Spain. Concerning the sensitive issue of the modality of qualified majority voting Hungary would have preferred a slightly modified system of double majority voting (see point 2.3.) and in this respect it allied with the Czech Republic. At the same time Hungary is ready to make compromises here too.

The Summit in Brussels on 12/13 December 2003

The failure of the European Council in Brussels on 12/13 December 2003 was of course not welcome by Hungary although the high-ranking politicians and diplomats, similarly to their European counterparts, tried not to dramatise the situation. Hungary highly appreciated the efforts of the Italian presidency and emphasised that it was not the fault of only one country (namely Poland) that a final agreement could not be met.

In the beginning of January 2004 however the Hungarian Foreign Minister said in an interview that a further failure of the IGC during the Irish presidency would have a very negative impact on the EU both inside and outside. Inside, this would be a problem because the prolonged conference might interfere with the negotiations on the financial framework of 2007-2013 which is of crucial importance for the new Member States. So Hungary proposed to assist the presidency by any means to find the necessary compromise in the near future. On the other hand bilateral negotiations, launched by the Irish presidency, could also be of use, the most important aspect still being to preserve the political solidarity among the Member States. Furthermore, in the Hungarian view the failure of the constitutional process must be avoided also from the point of view of the Union's image on the international arena. In any case, despite the present difficulties, the situation is not perceived by Hungary as a possible failure of enlargement.

2. IGC: controversial issues

President of the European Council/EU Minister of Foreign Affairs

During the European Convention the Hungarian members did not support the idea of having a permanent President of the European Council as proposed by the big Members States. Hungary wanted to keep the rotating system of the Council presidency including the level of the European Council. In the end Hungary ceded in this debate and accepted the reform provided the President (or rather Chair) will only play a limited role. On the other hand Hungary is satisfied with the formula of a rotating presidency for the Council (other than Foreign Affairs). The scheme provided by the Italian presidency⁹⁶ (group presidency of three countries for 18 months) is also acceptable for Hungary.⁹⁷

⁹⁶ IGC 2003 – Intergovernmental Conference (12-13 December 2003) Addendum 1 to the Presidency proposal. CIG 60/03, ADD1, PRESID 14, p. 10.

In the Hungarian view the President of the European Council shall not coordinate the activities of the different Council formations: this task is to remain with the General Affairs Council which *„shall ensure consistency in the work of the different Council formations.”*⁹⁸ In its mission to prepare and ensure the follow-up of the European Council meetings the General Affairs Council should of course do this *„in liaison with the President of the European Council and the Commission.”*⁹⁹

Furthermore Hungary agrees that a clear division must be made between the CFSP and CSDP related competences of the President and the Foreign Minister. But this is deemed by Hungary a technical issue (as well as the question of where to allocate the Foreign Minister’s office) therefore this must not be solved at the IGC level. Correspondingly Hungary has not published any position in this respect.

Commission

In Hungary the widespread opinion is that the system of „one Commissioner one country” should be maintained. In the Hungarian view the increased number of Commissioners will not necessarily lead to lower efficiency of the European executive, this is just a question of technical organisation of the work of the college. Therefore Hungary did not support the formula of 15 voting European Commissioners and further non-voting Commissioners proposed by the Convention and finally written in the Draft Constitutional Treaty. Hungary accepted this point at the end of the Convention with the aim of coming back to this question on the IGC and preferably restoring the system entering into operation on 1 November 2004.

Hungary is of course well aware that the European Commission is not the forum for representation of national interests, at the same time, every country’s Commissioner should be equally there when formulating the common European interest. And the other way is also important: when a decision is taken by the Council which is perhaps contrary to the Hungarian national interests then the situation could be eased when the Hungarian Commissioner could come to Budapest to explain to the public in Hungarian language why the given decision is so important from the European point of view. But beyond the principles Hungary also saw technical problems in connection with the proposal. Namely, the role of the non-voting Commissioners was not clear: would s/he have an own administrative responsibility? If yes, why would s/he not have the right to vote over those issues? If not, then for what would s/he get his/her salary? Furthermore, if the EU extends beyond 30 there would be

⁹⁷ See: IGC 2003 – Reply from Hungary to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers. CIG 23/03 DELEG 14.

⁹⁸ IGC 2003 – Intergovernmental Conference (12-13 December 2003) Addendum 1 to the Presidency proposal. CIG 60/03, ADD1, PRESID 14, p. 9.

⁹⁹ IGC 2003 – Intergovernmental Conference (12-13 December 2003) Addendum 1 to the Presidency proposal. CIG 60/03, ADD1, PRESID 14, p. 9.

countries left out of the Commission for two cycles. So to date Hungary definitely prefers the one Commissioner per Member State model.

Definition of qualified majority voting (QMV)

Hungary is actually satisfied with weighted votes provided by Nice but already during the Convention the Hungarian members were ready to abandon the Nice system (as from 1 November 2009) in favour of double majority. In the Hungarian view the double majority is more transparent, understandable for the public and also reflects the equality of States coupled with basic principles of representative democracy. In fact regarding the population indicator Hungary will lose 1.5 percentage point of its influence because the Hungarian population will make up 2.2 per cent of the population of the EU-25 while the Nice vote of Hungary (12) represents 3.7 per cent of the total votes. Nevertheless, Hungary would have preferred a modified system based on parity. This would require 60 per cent of the countries coupled with 60 per cent of the population (a position shared only with the Czech Republic) or 51-51 per cent (as preferred by the like-minded countries). The recent proposal of 55-55 per cent is also acceptable for Budapest. What is important for Hungary is not to raise the population quota without raising the Member States' quota.

Extension of QMV

Regarding the extension of QMV Hungary is wholly supporting the results of the Draft Constitutional Treaty. As to further developments Hungary is against using QMV in two policy areas: defence and culture.

European Parliament

The Hungarian government as well as all parliamentary parties are in favour of extending the legislative functions of the European Parliament and the strengthening of the EP's budgetary role, as laid down in the Draft Constitutional Treaty. These achievements should be consolidated at the IGC too.

3. The ratification process

There is no official decision yet as to how the ratification of the Constitutional Treaty shall proceed in Hungary. The Hungarian parliament will surely ratify it without any difficulties and it seems that there would be no major risks with a referendum neither, since – at least according to opinion polls – over 80 per cent of Hungarians support a Constitution for Europe (see point 5.2.).

4. Elections to the European Parliament

In Hungary there are four parliamentary parties: the Hungarian Socialist Party (MSZP), the Alliance of Free Democrats (SZDSZ) – these two make up the ruling coalition; the FIDESZ Hungarian Civic Alliance (FIDESZ-MPSZ) and the Hungarian Democratic Forum (MDF) forming the opposition. All these are running separately on the European elections the campaign for which shall start the 16th of March (the 15th of March is in Hungary national holiday). All parliamentary parties have already revealed their lists of candidates.

Interestingly, the MSZP and the MDF put on the top of their lists well known leading politicians (president of the party, foreign minister, as well as the ex Prime Minister) but none of them would like to work at the European Parliament. So it is rather the second (in case of MDF) or third (in case of MSZP) politician, as well as the persons below them who should become MEPs. These personalities are of course less known than those heading the lists but not being „real” candidates, which is quite misleading for the ordinary Hungarian voter.

On the other hand FIDESZ-MPSZ put on the top of its list two well-known politicians (vice-president of the party, an ex member of the Convention who is at the same time vice chair of the national parliament and an observer MEP) who are determined to work at the European Parliament as well as all other candidates following them. The SZDSZ too put on the top of the party list a well-known politician (the mayor of Budapest) who feels determined to continue with both jobs in the future thus wanting to represent the interests of large cities at the European Parliament. Their second figure is an ex-member of the European Convention and an observer MEP.

Among the Hungarian politicians those have the highest expertise in European affairs who have been observer members of the European Parliament in the last months or have been involved in European affairs in another way. If we take a look at the „real” EP-candidates of the four parties we can establish that in all four cases some of the present observer MEPs, and one ex EU-diplomat (FIDESZ) can be found there. But other aspects, such as representing the Roma minority or sending sectoral experts can also be revealed when examining the personalities on these lists.

As regards the focus of the electoral campaign this is not known yet since – as it was mentioned – the campaign shall be officially launched the 16th of March. In any case every party pledged to bring up European issues or Hungarian issues connected with our EU-membership. At the same time it is hard to imagine the complete absence of internal politics during those three months, especially because the popularity of the greater ruling party has strongly decreased while that of the greater opposition party

rose significantly. The two smaller parliamentary parties seem to keep their initial (low) record. (According to recent opinion polls the two big parties, FIDESZ and MSZP will share 23 seats in the European Parliament while SZDSZ would be able to send 1 representative and MDF might not reach the necessary threshold.)

5. Awareness of the IGC

Hungarian national parliament

The Hungarian national parliament has been involved in both events, the deliberations of the European Convention and the formation of the national position on the IGC. The Committee for European Integration as well as the so-called Grand Committee for European Integration discussed these questions all together at eight occasions between May 2002 and December 2003. The Grand Committee for European Integration was actually created in order to find a consensus among all political parties in the most important EU-related questions. The Grand Committee is convened by the chairwoman of the parliament and is composed of the heads of political factions, as well as the chairmen of the Committee for International Affairs, of the Committee for European Integration and of the Committee for Constitutional and Judicial Affairs. The Hungarian activities on the IGC are accompanied by the general support of the Grand Committee regarding all the major points represented by the government (especially concerning the mentioned minority issue, the mandate for which was actually adopted as an official document by the Grand Committee). At the same time neither the Draft Constitutional Treaty nor the negotiations on the IGC have been discussed at any plenary session in the Hungarian parliament.

Public opinion

The widely accessible public media is not following regularly the IGC, it reports only about its milestones, such as the Naples Conclave and the Rome European Council. If European questions emerge in the public media or among interest groups these always concern important sectoral issues with a view to the future Hungarian performance of the given sector after the 1st of May. So Hungarians are much more occupied with the challenges of the coming EU membership than with the constitutional process as such, which mainly interests experts. But the interest and expertise in the European constitutional process is actually growing: in the specialised Hungarian journals (e.g. Európai Tükör/European Mirror, Európa 2002/Europe 2002, Európa Fórum/Europe Forum, or Európai Jog/European Law, etc.) we can regularly find publications about the subject. Of course the paying electronic information service, Bruxinfo (managed by a couple of Hungarian journalists based in

Brussels for many years) is also constantly dealing with the subject and they also have a separate theme-dossier where all their archived articles about the Convention and the IGC can be found. Last but not least the home page of the Foreign Ministry is also permanently updated and all the necessary information about the Convention, the IGC and the Hungarian activities in both can be traced down there. In parallel more and more university students are interested in writing their diploma or Ph.D. about the recent and present constitutional issues and these matters also appear on the agenda of university courses (and not only for lawyers).

Even though the general public in Hungary seems to be among the least informed about the Convention and the IGC, the Hungarians are among the most enthusiastic citizens as regards the adoption of a Constitution for Europe. The following data can very well underpin this situation. Just after the Summit in Thessalonica, in June 2003 the Eurobarometer together with EOS-Gallup Europe carried out and published a very interesting opinion survey.¹⁰⁰ To the question „Have you ever heard of the European Convention?“ only 29 per cent of the questioned Hungarians answered Yes. Only the Lithuanians (28 per cent) and the British (25 per cent) had such low records – against the EU-25 average of 45 per cent, or against Greece (81 per cent), Luxemburg (66 per cent), or Finland (61 per cent). Even less Hungarians knew what kind of text had the Convention elaborated. Only 22 per cent said rightly that it was a Draft Constitution and 60 per cent had no knowledge at all what kind of text it could have been. With this record Hungary was in the lowest third of the 25 States even though the average of 32 per cent was not very brilliant neither. Nevertheless, 51 per cent of the Hungarians felt ready to read at least a summary of the Draft Constitutional Treaty (and 15 per cent wanted to read the whole text). With this rate Hungary (after Ireland and Luxemburg) was the third while the average was not higher than 38 per cent (and 11 per cent for the whole text). To the question „Do you agree with a Constitution for the European Union?“ 81 per cent said Yes. Only the Italians and the Spaniards had a higher support (82 per cent) for this idea as against the average of 68 per cent. Finally, from the point of view of the importance of the EU for its citizens it is relevant to mention that only 40 per cent of the EU-25 average insisted on a public referendum about the Constitutional Treaty. At the same time 53 per cent of Hungarians were of the same opinion.

Media coverage

The media coverage of the first months of the IGC have been rather scarce, only the opening of the IGC, the Naples conclave and the Rome Summit have been covered extensively. Of course at these occasions the general situation, the stakes and the most discussed issues have been highlighted while special room was left for the four major Hungarian interests and the high degree of their acceptance at the conference. The general picture in the media about Hungary was that of a cooperative country

¹⁰⁰ EOS-Gallup Europe – Eurobarometer: „Convention on the Future of Europe“ Flash EB 142. <http://eosgallupeurope.com>

during the negotiations. After the Brussels Summit in December 2003 Poland and Spain were mentioned by the media as the countries responsible for the failure of the IGC and at the same time the news have been spreading that, in case this would lead to a two-speed Europe, Hungary would do everything in its power to join the „hard core”.

6. Sources of information

Ministry of Foreign Affairs of the Hungarian Republic on the internet:

<http://www.kum.hu>

Bruxinfo:

<http://www.bruxinfo.hu>

IGC 2003 – Intergovernmental Conference (12-13 December 2003) Addendum 1 to the Presidency proposal. (CIG 60/03, ADD1, PRESID 14)

EOS-Gallup Europe – Eurobarometer: „Convention on the Future of Europe“ Flash EB 142.
<http://eosgallupeurope.com>

IGC 2003 – Reply from Hungary to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers. CIG 23/03 DELEG 14.

Interview with an expert at the Ministry of Foreign Affairs.

National Report Latvia

by Dr. Ainars Dimants, Head of the Media Research Project at the Vidzeme University College

1. Outcome of the Intergovernmental Conference

The Latvian government supports the draft Constitutional Treaty proposed by the European Convention¹⁰¹. The mentioned reasons for such support are: the draft Constitutional Treaty unites the founding and structural principles of the European Union, which are until now scattered in eight different treaties; the draft simplifies the decision making system of the European Union; the competencies of the European Union and the Member States are clearly defined in this draft; and the draft Constitutional Treaty makes the European Union more visible and understandable for the public. As two principles for reforming of the European Union, which must be taken in consideration, the government called for both efficient functioning of the European Union and equality between the Member States¹⁰².

In the same time the position paper of Latvia¹⁰³ says about the four priorities in the intergovernmental negotiations: the composition of the European Commission, the representation in the European Parliament, the Legislative Council and the defence policy. Therefore in fact the government demanded amending of the draft Constitutional Treaty on those issues and that position was not changed in the first three months of duration of the Intergovernmental Conference. Latvia's standpoint is that the revised draft Constitutional Treaty as proposed by the European Convention shall be the **final outcome of the Intergovernmental Conference**. This includes however a clarification on several issues. The biggest difference from the former official position at the time of work of the European Convention is still the acknowledgment of the President of the European Council and not more of the rotation of the Presidency of the European Council within the Member States.

We could speak of a **coalition building** for the harmonisation of national positions about the European Union's development, policy directions and priorities with other similarly thinking – in many issues – countries of the so called 3 + 3 group (Denmark, Finland, Sweden + Estonia, Latvia, Lithuania),

¹⁰¹ See: Latvijas pozīcija Starptautiskās konferences. 30.09.2003. In: <http://www.am.gov.lv/lv/?id=4399>

¹⁰² See also: Address of H.E. Einars Repše, the Prime Minister of the Republic of Latvia at the opening of the Intergovernmental Conference, Rome, 4 October 2003.

¹⁰³ See: Latvijas pozīcija Starptautiskās konferences. 30.09.2003. In: <http://www.am.gov.lv/lv/?id=4399>

although Latvia, e.g. the Foreign Minister Sandra Kalniete, repeatedly spoke out against the building of stable blocks within the European Union¹⁰⁴.

The European Movement Latvia – the biggest and most influential nongovernmental organisation on the European Union issues in the country – announced a very clear support¹⁰⁵ for the draft Constitutional Treaty proposed by the European Convention except one thing which is common with the official position¹⁰⁶: the composition of the European Commission should be based on the “federal principle”¹⁰⁷ – one Commissioner per Member State.

From point of view of the European Movement Latvia¹⁰⁸, the active, but very diverse in its content criticism of the draft Constitutional Treaty can be paradoxically seen as a sign of possible vitality of this draft: nobody is really satisfied with it; weighing, however, all pros and cons from everybody’s own point, the basic acceptance of the draft will be more beneficial than its rejection. Evidently, only the representatives of radical and consistent opinions are ready to reject it as a whole. The majority, however, in spite of more or less critical attitude towards various items, are ready to accept the draft as at least the almost best possible if not a perfect solution.. It is certain, however, that the later Constitutional Treaty as a final product will be conform in outline with the current draft. In the future, it will be the question of details and not that of general principles any more.

The compromise reached within the draft Constitutional Treaty concerning the balance in the decision making process between the larger and the smaller Member States of the European Union, is more or less acceptable for everybody. Therefore, there is no use for Latvia being small to criticise the large states for endowing themselves the right not to be overpowered by all small states voting jointly, underlined the European Movement Latvia¹⁰⁹. The large states could also express their criticism on the veto rights reserved in numerous cases for all the states including the small ones. This complicated mechanism will bring the states to compromises more or less acceptable for everyone, in a continuous process of negotiations.

In respect of the balance between the old and the new Member States of the European Union the draft Constitutional Treaty does not underline any differences between them. From the Latvian point of

¹⁰⁴ See, e.g.: Kalniete, Sandra: Latvijas arpolitika parmainu krustceles. In: Latvijas Vesture (2004), No. 1, p. 19.

¹⁰⁵ See, e.g.: Eiropas Kustibas Latvija prezidenta Ainara Dimanta uzruna. In: <http://www.latvija-eiropa.gov.lv/290>

¹⁰⁶ See: Latvijas pozicija Starpvaldibu konference. 30.09.2003. In: <http://www.am.gov.lv/lv/?id=4399>

¹⁰⁷ See: Dimants, Ainars: Kas ir kas Eiropas Savieniba : Par Latvijas vietu Eiropa domajot. In: Šreters, Hanss Jergs: Eiropas Savienibas leksikons : Politika, ekonomika, vesture, kultura. Riga : Jumava, 2004, p. 8.

¹⁰⁸ Levits, Egils: Interešu līdzsvars Konstitucionala liguma projekta. In: Dimants, Ainars et al. (ed.): Baltijas juras valstis un Eiropas nakotne – Paplašinatas Eiropas Savienibas perspektivas. Izdevusi Eiropas Kustiba Danija sadarbiba ar Eiropas Kustibam Igaunija, Latvija, Lietuva, Polija un Somija, 2003, pp. 15-16.

¹⁰⁹ Idem.

view, this is also the only solution, which guarantees a successful enlargement – any differences in the status of Member States are inadmissible, as this would *per se* question the enlargement.

Speaking about the power balance among the institutions of the European Union, everything is more or less in the old way. And this is – so the Latvia's position – also a good way, because the power balance among the institutions of the European Union is at the same time closely connected with both the power balance between the European Union, and the Member States, and among the Member States. This balance, which was very difficult to be reached, reflects widely the different interests within Europe, and that is why it was not to be lost.

Finally, speaking about the competencies of the European Union in the draft, these are also largely in keeping with the previous (existing) competencies. A greater progress could have really been possible here, since accurate division of competencies among the right levels of decision-making should be from time to time reviewed in the changeable world. The actual changes in the world would require here a stronger competence of the European Union in the foreign policy and in the defence, as well as in the former third pillar (justice and home affairs – in particular with regards to the asylum policy and judicial cooperation). Amendments planned in the draft Constitutional Treaty are, in European Movement's Latvia opinion, insufficient. Increasing of the European Union's competence in these areas would be beneficial for all Member States; unfortunately, it was prevented by national selfishness of some states including Latvia itself¹¹⁰. In return, the instrument of implementing the principle of subsidiarity has been solved much well in the draft.

Therefore, the outcome of the European Union's Summit in Brussels on 12/13 December 2004 was perceived as a failure of the Intergovernmental Conference and of the Italian Presidency, and as a failure at the European level and not at the Latvian national level¹¹¹. Latvia demanded the restart of the Intergovernmental Conference to seek agreement about “a little of questions” of the draft Constitutional Treaty¹¹².

2. Intergovernmental Conference: controversial issues

From the official Latvian point of view¹¹³, the functions of the **President of the European Council** should be clarified. The main function of the President should be the internal coordination of the

¹¹⁰ See also: Dimants, Ainars: Kas ir kas Eiropas Savienība : Par Latvijas vietu Eiropa domajot. In: ŠreTERS, Hanss Jergs: Eiropas Savienības leksikons : Politika, ekonomika, vesture, kultura. Riga : Jumava, 2004, p. 8-9.

¹¹¹ See, e.g.: Purina, Evita: Nicas pagaidu ligums Latvijai dos plašakas iespējas bloket lemmus : Latvija iegus abejadi : Savs labums gan no Nicas liguma, gan no stridos tapušas konstitucijas. In: Diena (2004-12-16), pp. 1, 3.

¹¹² See: Kalniete, Sandra: Latvijas arpolitika parmainu krustceles. In: Latvijas Vesture (2004), No. 1, p. 17.

¹¹³ See: Latvijas pozicija Starpvaldību konference. 30.09.2003. In: <http://www.am.gov.lv/lv/?id=4399>

European Council's work. The functions of the President of the European Council, of the Foreign Minister of the European Union and of the President of the European Commission cannot overlap.

The mandate and the status of the **European Union's Minister of Foreign Affairs** should be precisely defined to clarify his / her right of initiative and the obligation for consultations with the Member States. Also the executive structure of the Foreign Minister shall be placed rather within the Council.

An equal rotation of the Member States within the Presidency of the Council of Ministers' formations should be provided. Latvia welcomes the consensus reached at the Intergovernmental Conference not to create the Legislative Council. The legislative function should be attributed to each of the Council's formations.

"For Latvia, the question of the composition of the Commission is of our highest priority, as the Commissioner, working for the good of the Union, represents the Union in the eyes of our citizens. We believe that the model of a two-tiers Commission is not viable. The principle of "One commissioner with equal rights per Member State" has our full support," indicated the Prime Minister of Latvia Einars Repše already at the beginning of the Intergovernmental Conference¹¹⁴.

And later¹¹⁵, *"there is one question of vital importance to my country – each member state must have a Commissioner with full rights and responsibilities. This is my firm position. I perfectly understand that the Commissioner does not represent the interests of his or her country. We all know that the Commissioner acts for the general European interest. Nevertheless, it is extremely important for internal political reasons that each member state can delegate a Commissioner who shares responsibility for the common European interest. Our citizens should understand that member states are equal. They should see this equality in practice. Furthermore, I cannot agree with the view that the European Commission would not be effective with more than 15 voting Commissioners. This is purely a question of internal organisation and to large extent falls under the responsibility of the President of the European Commission. Even a small Commission can turn out to be inefficient if its work is not properly organised. Significantly, the European Commission supports the equal status of all Commissioners. The President, Mr Prodi, has long experience in organising the Commission's everyday work. He has managed to make a Commission of 20 successful. I am convinced that a Commission with equal members from every member state will be effective. It will serve to promote further EU development. It will meet our citizens' demand for transparent and understandable EU*

¹¹⁴ See: Address of H.E. Einars Repše, the Prime Minister of the Republic of Latvia at the opening of the Intergovernmental Conference, Rome, 4 October 2003.

¹¹⁵ See: Address of H.E. Einars Repše, Prime Minister of Latvia at the meeting of the European Council, October 16, 2003.

institutions – and that is what we are aiming for. The Commission and the EU as a whole can only gain from the principle of equality.”

The composition of the **Commission**, so the common Latvian position both of government and of the organised civil society (at the same time especially influential economical analysts, who call for a strongly coordinated economical policy of the European Union), at least for the first years of Latvia's membership in the European Union should be based on the principle – one Commissioner per Member State. Each Commissioner should have the right to vote. This is Latvia's "red line". Two commissioners for big member states would not symbolise equality of member states. Influence and population criteria are taken in account in Council voting procedure.¹¹⁶

By the **definition of the qualified majority voting** Latvian government supports the double majority voting in the Council. The parity (50/50 or 60/60) between the states and citizens should be taken into account¹¹⁷. In general Latvia accepts Convention's proposal on the **extension of qualified majority voting**. However, unanimity, so also the dominating position of other actors, should be safeguarded in the following fields:

- Defence and military area;
- Adopting multi-annual financial framework;
- Taxation policy¹¹⁸.

Structured cooperation among Member States in the area of defence policy should be open for all. European Union should avoid creating parallel structures to the NATO, which is the basis for Europe's security. The goal of European Union's common defence policy must be the crisis regulation.¹¹⁹

Latvia has made few proposals for non-institutional issues to be taken into account:

- Unanimity in adopting multi-annual financial framework;
- Maintaining of the current role of the Council of Ministers in the budget procedure;
- The European Union should lay down a minimum standards for common asylum system;
- Tourism should be included in European Union's supporting coordinating and complimentary action;
- Creation of European Public General Prosecutors office should not be supported;
- Amendments to the article on Public Health – include reference to pharmaceutical care as an area of full responsibility of the Member States.

¹¹⁶ See: Latvijas pozīcija Starptautību konference. 30.09.2003. In: <http://www.am.gov.lv/lv/?id=4399>

¹¹⁷ Idem.

¹¹⁸ See, e.g.: Dimants, Ainars: Kas ir kas Eiropas Savienība : Par Latvijas vietu Eiropa domājumā. In: Šreteris, Hanss Jergs: Eiropas Savienības leksikons : Politika, ekonomika, vēsture, kultūra. Rīga : Jumava, 2004, p. 8-9.

¹¹⁹ See: Latvijas pozīcija Starptautību konference. 30.09.2003. In: <http://www.am.gov.lv/lv/?id=4399>

Latvia's position¹²⁰ is that a minimum threshold of five seats per Member State in the **European Parliament** should be maintained, as determined in the Nice Treaty. In the case of four, Latvia would lose two - three Members of the European Parliament, which is 30% of Latvian representatives in the European Parliament. Also the representation of small countries will be reduced in this case. The cons for such solution are: *“The principle of proportionality ensures that while larger member states will always be well represented, smaller member states will have a better chance of being represented throughout the political spectrum of the European Parliament. This will ensure greater democratic credibility for the European Union among our citizens, and give our regional voters the opportunity to be represented in the European Parliament.”*¹²¹

3. The ratification process

Already in 2003 the issue of the ratification of the Constitutional Treaty was used for populist political fights of the opposition against the government, although both are from the same political spectrum – liberal-conservative and pro-European. Especially the People's Party was active in profiling on this issue with the demand for the referendum about the draft Constitutional Treaty¹²². But since this party has nominated a Foreign Minister (from March 2004), the position could be changed¹²³.

The substantial changes of the membership conditions of Latvia in the European Union in the direction of a federalist Europe may be perceived as **obstacles for adoption of the new Treaty**. By all means the Constitution of the Republic of Latvia in such case foresees the national referendum if at least a half of the Members of the national Parliament (*Saeima*) demand that referendum¹²⁴. We could prognosticate that there will be no referendum about the draft Constitutional Treaty in Latvia, because there is not the necessary majority in the Parliament for such a referendum.

4. Elections to the European Parliament

The candidates for the EP elections rather belong to the group of high profile politicians, e.g. the Foreign Minister Rihards Pīks, the former Prime Minister Guntars Krasts. Only the candidates from

¹²⁰ Idem.

¹²¹ See: Address of H.E. Einars Repše, Prime Minister of Latvia at the meeting of the European Council, October 16, 2003.

¹²² See, e.g.: Slakteris, Atis: Tautas nobalsošana par ES Konstitucionālo līgumu: padošanas pirms cinas? In: <http://www.diena.lv/lasit.php?id=197839>

¹²³ See, e.g.: Pīks, Rihards: Atšķirsim graudus no senalam! In: <http://www.diena.lv/lasit.php?id=200975>

¹²⁴ See, e.g.: Lulle, Aija: Latvija varetu būt referendumam par ES konstitūciju. In: Neatkarīga Rita Avīze (2004-03-23), p. 3.

new political parties are junior/less known politicians¹²⁵. Designing the candidates depends on the personal capacity of each political party. Especially the most popular party “New Era” has a relative weak list of candidates.

The central issues and arguments of the electoral debate are mainly of internal and not European character: national identity, a successful economic policy, knowledge-based society, welfare and security, etc. In addition, suitable using of the European structural funds, European Union’s relationship to the NATO, and worldwide condemnation of communism are on the agenda. Especially the right and left wing parties are profiling in their European election programmes¹²⁶ on the issues of the development of the European Union. The first ones are opposing a federalist Europe and a common taxation policy, whereas the last ones are in favour of using the community method for the common social policy.

5. Awareness of the Intergovernmental Conference

Only the European Affairs Committee of the **national Parliament** follows the Intergovernmental Conference. The call of the European Movement Latvia from 9 February 2004 to the national Parliament – *Saeima* – for organising a special parliamentary debate about the preparation of the Constitutional Treaty¹²⁷ was ignored. A corresponding public debate was launched in Foreign Ministry without participation of the members of the Parliament.

In the same way the **public** (media, interest groups, parties, etc.), with some already mentioned exceptions including biggest dailies (“Diena”, “Latvijas Avize”, “Neatkarīga Rita Avize”) and a public policy Internet portal “Politika.lv”, take no necessary notice of the Intergovernmental Conference. Their expectations and concerns were described beforehand, more or less determined by the agenda setting of the government, including even the Europe’s heritage of the Christianity, which mentioning in the preamble of the Treaty the Latvian government supported too. This must be seen in the context of the future enlargement (key word – Turkey).

The **media coverage** of the first three months of the Intergovernmental Conference was exactly corresponding to the weakness of the debate. In addition, it is significant that a populist attitude was expressed by some influential representatives of the Latvian business groups, e.g. Aivars Lembergs,

¹²⁵ See, e.g.: Partijas izvirza kandidatus. In: Latvijas Avize (2004-03-22), p. 5.

¹²⁶ See, e.g.: Partijas “Jaunais laiks” Eiropas Parlamenta vēlēšanu programmas pamata tezes / uzstādījumi (projekts) ; Tautas partijas programma darbam Eiropas Parlamentā; Tautas partijas rīcības programma darbībai Eiropas Parlamentā; Apvienības “Tevzemei un Brīvībai” / LNNK programma Eiropas Parlamenta vēlēšanām; Tautas saskaņas partijas programma Eiropas Parlamenta vēlēšanām.

¹²⁷ See: <http://www.eiropaskustiba.lv/jaunumi.html> ;

http://www.europeanmovement.org/downloads/Resolution_IGC_engl_27.01.04.pdf

the Mayor of the port city Ventspils, which spoke about the domination of the politics and not more of the economics in the future European Union after the adoption of the draft Constitutional Treaty.

The only one particular analytical publication in Latvian about the draft Constitutional Treaty “The Baltic Sea States and the Future of Europe – Perspectives on the enlarged European Union” was published by the Danish European Movement in co-operation with the European Movements in Estonia, Finland, Latvia, Lithuania and Poland¹²⁸. A deeper analysis of the constitutional aspects of the European political unity took also place in the academic world, from the normative point of view of the political science too¹²⁹.

A more vital discussion takes place in the context of the paper on the new foreign policy strategy of Latvia after the membership in the European Union and NATO. This paper has been prepared in the Foreign Ministry and published¹³⁰ for the wide debate, in the Parliament too. The well-founded critics point out that this document makes not clear whether Latvia is for deeper European integration, or not¹³¹. “*Latvia considers that the enlargement obligates us to prove that the European Union in the size of 25 states is able to successfully function and keeps the reached dynamics of integration,*” said the Foreign Minister¹³². But there are no signs that such a debate had an impact on public opinion trends vis-à-vis the European Union.

¹²⁸ See: Dimants, Ainars et al. (eds.): Baltijas juras valstis un Eiropas nakotne – Paplašinātas Eiropas Savienības perspektīvas. Izdevusi Eiropas Kustība Danija sadarbība ar Eiropas Kustībām Igaunija, Latvija, Lietuva, Polija un Somija, 2003.

¹²⁹ See: Jundzis, Talavs (ed.): Latvija Eiropa: nakotnes vizijas : Rakstu krajums. Rīga : LZA Baltijas stratēģisko pētījumu centrs, 2004 ; Ijabs, Ivars: Jauna suverenitāte: ES konstitūcija starp aprekinu un pašizpratni. In: Latvijas Vesture (2004), No. 1, pp. 31-34.

¹³⁰ Latvijas ārpolitikas pamatvirzīnu projekts. 2004. gada janvāris. In: <http://www.am.gov.lv/lv/index.html?id=4753>

¹³¹ See, e.g.: Jemberga, Sanita: Izraudzīti pieci jauni ārpolitikas merķi. In: Diena (2004-01-23), p. 1, 3. <http://www.diena.lv/lasit.php?id=207645>

¹³² See: Kalniete, Sandra: Latvijas ārpolitika pārmainu krustceļš. In: Latvijas Vesture (2004), No. 1, p. 17.

National Report Lithuania

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1. Outcome of the Intergovernmental Conference

Before the IGC started in October 2003, the Parliament (Seimas) and the Government of the Republic of Lithuania have almost at the same day respectively adopted the written documents on the state's position in the IGC: Resolution of Seimas and the Legal Act of the Government.¹³³ Although the position of the government was more elaborated and concrete, both documents were similar, because it was decided not to show some internal disagreements that have arisen between Seimas and the Ministry of Foreign Affairs (which was behind the governmental document) discussing some issues of the Constitutional Treaty. After the adoption of these documents the position of Lithuania officially has not changed till the end of the IGC.

It was supposed that the draft of the Constitutional Treaty prepared by the Convention was a good starting point for the Intergovernmental Conference. However, several amendments were proposed. And as the Prime Minister of Lithuania has stressed, the quality of the results of the Conference is much more important than closing it by the end of 2003. It was asserted that the discussion on the EU goals, policies and the organisational principles is a continuous process. The IGC has to reach the agreement that reflects the interests of all states participating in the conference and the IGC should finish its work only after reaching the "ideal", i.e. consensual, agreement.¹³⁴

After the IGC has failed in December 2003, the comments on its results were not very pessimistic, one even can say that such outcomes were expected. The Minister of Foreign Affairs Antanas Valionis said that he would not call the IGC a fiasco or a catastrophe. He hoped that the compromises useful for Lithuania that have been reached at the conference would be kept in the future (e.g. the number of commissioners). The member of Seimas Vytenis Povilas Andriukaitis agreed with the minister, he even was optimistic enough to assert that the Constitutional Treaty would be adopted till May 1, 2004.¹³⁵ From the other hand, the deputy director general of the European Committee of the Republic of Lithuania Klaudijus Maniokas has expressed the opinion that "*Lithuania, like other small countries,*

¹³³ The Resolution of the Seimas of the Republic of Lithuania "On the Position of the Republic of Lithuania at the Intergovernmental Conference on the Issue of the Constitution for Europe", September 25, 2003; Legal act of the Government of the Republic of Lithuania "On the Position of the Government of the Republic of Lithuania at the Intergovernmental Conference on the Issue of the Draft Constitution of Europe", September 25, 2003, Nr. 1187.

¹³⁴ Minutes of the Sitting in the Seimas of the Republic of Lithuania, Sitting Nr (419), September 25, 2003, <http://www3.lrs.lt/cgi-bin/preps2?Condition1=218382&Condition2=> [accessed March 11, 2004]

¹³⁵ „The results of the EU Conferene are not a catastrophe“, *Baltic News Service (BNS)*, December 15, 2003.

*silently supports Poland*¹³⁶. Nobody in Lithuania has showed any doubts that the collapse of the IGC would hurt the enlargement process as such and make any changes to it. Following this approach, EU enlargement is seen as a given and unchangeable process.

During the IGC Lithuania tried to participate in the coalitions of the smaller states, or in some cases supported Poland (e.g. question of reference to the Christianity in the Preamble). To illustrate, before the IGC started Lithuania together with other six states (Hungary, Finland, Slovenia, Czech Republic, Malta, and Austria) has sent the open letter to the Italian Prime Minister Silvio Berlusconi, at that time holding the Council presidency with the additional suggestions to the IGC agenda. They wanted to reopen discussions on the status of the European Council, the permanent Council's presidency and the allocation of seats in the European Parliament.¹³⁷

2. IGC: Controversial issues

During the IGC the government of Lithuania was trying to stress one principle which was and is guiding the Lithuanian position. "The equality of all states" – sounds this principle. Thus, the equilibrium should be retained everywhere: equilibrium among the member states themselves, as well as the equilibrium among all European institutions. It was the main argument, which was used defending almost all positions of the country on the Constitutional Treaty.

As it was already mentioned, Lithuania consented that the draft Constitutional Treaty that was prepared by the Convention on the Future of Europe is more or less acceptable. However it was decided to underline several amendments and proposals.¹³⁸

President of the Council/ EU Minister of Foreign Affairs

The officials of Lithuania asserted that the new permanent post of the President of the Council of the European Union is not necessary. At the same time the idea of the formalisation of the "summits" increases the intergovernmental method against the community method, which is against the overall spirit of the EU. Furthermore, the position of the President would increase the competition between the Commission and the Council and destroy the now so hardly achieved balance between the institutions.

¹³⁶ „It will be difficult to punish Poland and Spain“, *Lithuanian News Agency (ELTA)*, December 17, 2003.

¹³⁷ „Lithuania with the other likely thinking states suggests the questions to the EU IGC agenda "forgotten" by the Italian Presidency of the EU“, *Baltic News Service (BNS)*, October 2, 2003. See also: „Seven small Member States submit claims to IGC“, October 3, 2003, *EurActiv.com*, <http://www.euractiv.com/cgi-bin/cgint.exe/359128-175?204&OIDN=1506370&-home=search> [accessed March 1, 2004]

¹³⁸ The main sources of the position on the controversial issues are included in the Resolution of the Seimas and Legal act of the Government of Lithuania (see: the footnote Nr 1).

On the other hand, the powers and functions of the Presidency of the EU have to be defined more precisely and the meetings should not be held only in Brussels because this would make the EU too centralised.

The Presidency in the Council should be rotating. Lithuania also backed the idea of the “team presidency”. That is the presidency of a group of the states which should be developed where different states would chair different Council formations for a period of a year and a half. The presidency of a group of states would ensure the consistency of the EU action, its succession, the possibility to share the responsibility and burdens being the President of the EU, besides, it would reveal the specific advantages of the particular state.

The position of the Minister of the EU Foreign Affairs was welcomed. It was stated that the minister would help to coordinate the EU foreign policy and secure its consistency. The idea that the Minister of EU Foreign Affairs is the Vice-President of the Commission and also the head of the Foreign Affairs Council would be the optimal option. This position should improve the development and implementation of the EU Common Foreign and Security Policy.

Commission

Lithuania strongly opposed to the proposal included in the draft Constitutional Treaty to reduce the number of commissioners. The country’s position was clear: every member state should have one member of the Commission and all commissioners should be equal to each other, excluding a differentiated approach to commissioners with different status (‘voting’ and ‘non-voting’). The status of the commissioners should be defined more clearly. Of course, it was admitted that having the bigger Commission, it will be hard to keep all Commissioners equal because they will have to be grouped in some ways. However, keeping in mind the principle of the equality of all states, it is better trying to manage the big Commission than to have a smaller one where the uncertainty on the legal status of the commissioners and their responsibilities would remain.

Definition of the qualified majority voting

As to the discussions on the voting system in the Council of Ministers, the position of Lithuania has changed since the Convention, where the Nice arrangements were supported without any objection. Later, in the first months of the IGC, Lithuanian officials stated that the voting principle of double qualified majority was acceptable. Besides, it was proposed to keep the same proportions for the number of states and the size of population of the states (60% in both cases). However, a possible reservation has also been anticipated: in case a common agreement on the double majority would not

be reached, Lithuania decided to support the Nice arrangements because they reflect, as it was emphasised in the Legal act of the Government, “a *proper equilibrium among the big, medium and small states*”.

Speaking in the Seimas the Minister of Foreign Affairs Antanas Valionis expressed the position of his ministry saying that the Nice arrangements are useful for Lithuania only in the negative sense – when trying to block or to stop decisions. The difference between the two systems is for Lithuania strategically not so big and the country is open to make concessions. Besides, the ability to participate in the coalition building is perceived as much more important in the EU than blocking the decisions, has added the Minister of Foreign Affairs.¹³⁹ Thus, on this question Lithuania decided to keep a flexible position.

Extension of qualified majority voting

Yet again, the Minister of Foreign Affairs Antanas Valionis said: “*I do not belong to those who think that the veto right is the best means to defend our interests. The negotiations, the coalition building is the better way to defend our interests. We are entering the EU not because of possibility to make veto’s, but of the possibility to make decisions.*”¹⁴⁰ Consequently, Lithuania has accepted the extension of the qualified majority voting to the fields enumerated in the Convention. On the other hand, the Convention has left some areas such as the foreign policy, taxes, and social policy – where the unanimity has been kept. This corresponds to the position defended by the Lithuanian decision-makers.

European Parliament

The members of Seimas representing Lithuania in the Convention were emphasising several times that they would not agree with the idea to reduce the number of Members of the European Parliament or to make any other reallocation of seats inside this institution. The provisions on the increase of the role of national parliaments in the EU integration processes were also considered as one of the most important improvements included in the draft Constitutional Treaty.¹⁴¹

The extension of the budgetary powers of the European Parliament was not an issue of discussions among the Lithuanian politicians. The main reason thereof seems to be a lacking competence of

¹³⁹ The speech by the Minister of Foreign Affairs of the Republic of Lithuania Antanas Valionis on the progress of the IGC in Seimas of the Republic of Lithuania, October 28, 2003, http://www.urm.lt/view.php?cat_id=14&msg_id=2681 [accessed March 5, 2004]

¹⁴⁰ Ibid.

¹⁴¹ See remarks by Algirdas Gričius during the discussions on the Seimas position in the IGC, Minutes of the Sitting in the Seimas of the Republic of Lithuania, Sitting Nr (419), September 25, 2003, <http://www3.lrs.lt/cgi-bin/preps2?Condition1=218382&Condition2=> [accessed March 11, 2004]

Lithuanian officials in the financial questions in general and the budgetary processes of the EU in particular.

Other questions: EU defence policy and reference to Christianity

The EU Defence policy: It was asserted many times that there is no need to formalise the EU common defence if it is going to duplicate the NATO structures and capabilities. NATO has to stay the basis for the European collective defence, and no other European defence alliance without the transatlantic link is possible.

The question of Christianity: The European Christian values and roots should be mentioned in the preamble of the Constitution. This was also the new item in the Lithuanian position on the Constitutional Treaty. In the Convention on the Future of Europe a neutral position was chosen, i.e. no comments were made on this question. However, after several public statements by high officials of the Catholic Church of Lithuania about the need to remember the Christian roots in the European Union and after a couple of informal conversations between the politicians and the clergy the official position has been changed. After all, the Catholic Church in Lithuania has still a considerable impact on the political life of the country. Besides, the influence of the bigger neighbour Poland should not be underestimated.

3. The ratification process

So far, no official position on the ratification of the possible European Constitution was expressed. However, some guesses were made that Lithuania may have to organise the referendum on the adoption of the Constitutional Treaty. Some even have proposed the date of the referendum – the day of the elections to the European Parliament.¹⁴² However, the chair of Seimas, the leader of the ruling New Union (Social-liberal) party Arturas Paulauskas has expressed his doubts if there would be any need for the referendum – “*in any case people of Lithuania have already voted for the EU membership in the referendum*”¹⁴³ [May 11, 2003], he said. Some of the officials, as for example a liberal centrist member of Seimas Algirdas Gričius, were for the referendum only if the Intergovernmental Conference would radically change the draft proposed by the Convention, because such a Constitutional Treaty would create a different EU from the organisation Lithuania decided to access before.¹⁴⁴

¹⁴² „Referendum on the European Constitution could be organised together with the elections to the European Parliaments, says the leader of the Liberalcentrists“, *Baltic News Service (BNS)*, January 8, 2004.

¹⁴³ *Ibid.*

¹⁴⁴ Minutes of the Sitting in the Seimas of the Republic of Lithuania, Sitting Nr (419), September 25, 2003, <http://www3.lrs.lt/cgi-bin/preps2?Condition1=218382&Condition2=>, also look Sitting Nr (419), September 25, 2003, <http://www3.lrs.lt/cgi-bin/preps2?Condition1=218385&Condition2=> [accessed March 1, 2004].

Looking at the political culture of Lithuania it is possible to guess that it may be a hard task to adopt the European Constitution in the referendum. The absenteeism in Lithuania remains very big, notwithstanding the high turnout during the referendum on the EU membership. It may be very hard to explain to the public why people have to go to vote again. Besides, the issue is fairly complicated, difficult to present and explain easily to the Lithuanian public opinion. Finally, in 2004 Lithuania may have three elections (to the European Parliament in June, to Seimas in September, and probably also Presidential elections in case the ongoing impeachment process would end in resignation of the President Rolandas Pakas). After such a marathon it would be hard to persuade people to come to the polls once again.

4. Elections to the European Parliament

During the elections to the European Parliament Lithuanians will vote for the party lists. Lithuania will have 13 seats in the EP. Each party will have to get at least 5% of votes in order to get seats in the EP.

According to the opinion polls, the most popular among the population candidate to the EP was the former president of Lithuania Valdas Adamkus: 27,9% think he would be the best to represent the interests of the country. The chief negotiator to the European Union Petras Austrevicius (9.1%) and the Prime Minister Algirdas Brazauskas (8.9) were the second and the third on the list of preferences.¹⁴⁵ However, Valdas Adamkus has many times repeated that he will not be a candidate to the European Parliament. Algirdas Brazauskas also has not expressed any interest in participating in the elections.

Among the high profile Lithuanian politicians there is not a lot of wish to get into the EP. The main reason for the passivity among Lithuanian politicians is the approach of regular elections to Seimas, which will be held in autumn this year.

To illustrate, the most active member of Seimas as to the European affairs Vytenis Andriukaitis, who sometimes is even called the "Euro-man" in Lithuania, and who was considered as the EP candidate number one from the ruling Lithuanian Party of Social Democrats, has rejected the proposal of the party to present himself to the European elections. He has expressed a clear preference as one of the main candidates to Seimas, but also he intends to become the leader of the party after the cadency of the present leader Algirdas Brazauskas will end this year.

The Party of Social Democrats decided to put the vice-minister of Foreign Affairs Justas Paleckis on the top of the preliminary list of candidates, and on the second place the chairperson of the Seimas

¹⁴⁵ „Lithuanians wish to see the Labour Party in the European Parliament“, *Baltic News Service (BNS)*, January 8, 2004.

Foreign Affairs Committee Gediminas Kirkilas. The famous journalist Algimantas Cekuolis will allegedly also be on the list. In April or May this party will present the final list of the candidates.

There are other prominent politicians who have already declared their interest in participate in the EP elections. Among them, there is the first Prime Minister of Lithuania, currently the leader of the Union of the Peasants and Women Party, Kazimiera Danute Prunskiene. Vytautas Landsbergis, the former chair of Seimas, and one of the leaders of the National Movement "Sajudis", will be the first on the list of the Homeland Union. The Union of Liberals and Centrists will propose the second man in the party Eugenijus Gentvilas, who was a former Minister of Economy and for some time the interim Prime Minister. Lithuanian Christian Democrats have mentioned that they are thinking about Kazys Bobelis as their leader in the EP elections. Other parties have not yet declared their lists or main candidates. However, the main tendency is that parties are trying to promote the well-known politicians at least on the first positions, without taking into account they real experience in EU affairs (the Social Democrats would be an exception here).

There are different forecasts on the possible turnout of the elections to the European Parliament. On the beginning of February the opinion polls carried out by the Market and Opinion Research Centre "Vilmorus" showed that 82,8% of the population will participate in the elections¹⁴⁶. However, EU public opinion analysis agency "Eurobarometer" found out that only 31% of Lithuanians are going to come to the elections polls.¹⁴⁷ Considering the mood of the population, which is usually very apathetic, it looks that the later number maybe closer to the truth.

At the moment (beginning of the spring 2004) there is no big interest in the elections to the EP. Not many consider this EU institution as the important place to make decisions for Lithuania and its influence is questioned. All the preparations will start in May. Then it will be possible to highlight the main candidates, parties and issues. In general, it seems that many politicians will treat the EP elections as the important repetition to Seimas elections.

5. Awareness of the IGC

Before the IGC started, the national parliament organised the discussion on the position of Lithuania in this conference and also adopted the official position of Seimas.¹⁴⁸ Seimas approved the draft Constitutional Treaty as a good document to start discussions in the IGC.

¹⁴⁶ „The turnout in the election to the European Parliament will make a record“, *Baltic News Service (BNS)*, February 17, 2004.

¹⁴⁷ „Very few voters are going to participate in the EP elections“, *Baltic News Service (BNS)*, February 24, 2004.

¹⁴⁸ See: Footnote Nr.1 and Footnote Nr. 12 on the minutes of the Sitting of Seimas.

Although both the representatives of the Government and the Parliament have stressed the importance of the public discussions on the draft of the EU Constitutional Treaty and the activities of the Intergovernmental Conference, the interest of the public for these issues was and remains minimal. The main reason for that is an internal political scandal, which has started by the end of October and has continued till the spring 2004. Accusations of the President of Lithuania Rolandas Paksas of having broken the Constitution of the Republic of Lithuania, his impeachment and possible resignation have permanently dominated the political as well as the media agenda of the country. All other issues, such as the beginning of the membership in NATO and the EU, including questions related to the IGC and the Constitutional Treaty are only of secondary importance in these circumstances.

From the other side, there is a big doubt whether the public interest would be bigger if there would be no political scandal in the country. The institutional, financial, budgetary and other problems of the EU are difficult to understand for the large public who is not closely interested in the EU. There is still a huge need to educate the public not only about the reforms in the EU, but also on substantial issues what the EU is and what it does. The general mood can be described as follows: the officials are taking decisions; whereas the public has no interest in the outcomes. Consequently, there is no public pressure as to the position of Lithuania in the IGC.

The media coverage in the first months of the IGC was basically limited to the retransmission of the news of the foreign news agencies. The biggest attention was paid to the main controversial issues, such as voting weight, number of commissioners, or question of Christianity in the preamble and to the position and requirements of Poland. Obviously the peak of the media attention was in December 2003 after the summit in Brussels, especially because it was unsuccessful and left unfinished.

National Report Poland

by Dr. Rafal Trzaskowski, European Centre Natolin

1. Outcome of the Intergovernmental Conference

The Polish government and the biggest pro-European opposition party (Civic Platform) are for the adoption of the text of the draft Constitutional Treaty. However, with one exception – Warsaw believes that the decision concerning the new system of weighted votes should be postponed. According to the Minister of Foreign Affairs Włodzimierz Cimoszewicz – *“The proposal that we should move now to change the voting system, even though the Nice solution is to remain in force for five years after enlargement, is illogical. If it turns out, as Poland believes, that the system will prove itself in practice, then why change it at all? But if the fears of some states are confirmed - then why wait five years before abandoning it? The only logical conclusion is to give the Nice system a chance. Let us test it in practice and then make an assessment”*.¹⁴⁹

Coalition building

Poland's position did not change much during the first months of the IGC, although from January onwards the government consciously stresses its readiness to compromise on the EU Constitution, although without being specific about it. Such trend has been even strengthened by the result of the Spanish elections. Throughout the IGC Poland's authorities were in contact with many of its partners. The Prime Minister and the President visited many of the EU countries in order to present the Polish arguments (mainly on the system of weighed votes). Just to give a few examples, the Prime Minister, Leszek Miller, met Chancellor Gerhardt Schroeder in Gelsenkirchen (on the 23.09) and President Kwasniewski went to Berlin just before the Brussels summit. The French Prime Minister Jean Pierre Raffarin visited Warsaw at the beginning of December 2003, and the Italian Prime Minister Silvio Berlusconi on the 21.11. Those contacts, however, can be labelled rather as routine presentation of arguments than true coalition building. The relations with Spain and, to a certain extent, Britain had a much more serious character.

Spain's conservative government has been Poland's main ally in defending the system of weighted votes. Both countries consulted on the issue on numerous occasions. Foreign Ministers Palacio and Cimoszewicz even wrote a common text in Financial Times on the issue, in which they stated: *“The current Treaty was designed for the enlarged European Union. It may not be perfect but it will be*

¹⁴⁹ Let's give Europe a chance, a declaration of Włodzimierz Cimoszewicz, „Gazeta Wyborcza“ 10.12.2003.

efficient. As the proverb says, "if it ain't broke don't fix it".¹⁵⁰ Prime Minister Miller visited Madrid just before the Brussels Summit following a visit of President Kwasniewski (which took place a month earlier on the 01.10). On the occasion of Kwasniewski's visit both countries issued a joint Polish-Spanish declaration, in which both countries stressed their determination to defend the Nice system of weighed votes (www.mae.es/mae/ACTUALIDAD/...) (*declaration ministerial hispano-polaca sobre la CIG*). There has been also a certain effort to build an entente with the British. On the 17.10. Cimoszewicz met his homologue Jack Straw to try to forge a common stance on institutional issues. London wanted the Polish support on the question of QMV extension (a firm opposition to extending QMV to taxes and CFSP) the Poles needed the British neutrality on vote weighing. After the meeting Straw said that "Nice after all was a default setting" and therefore in the event of non-agreement it should remain the rule.¹⁵¹ The British from then on remained ambivalent, not yielding to the Franco-German insistence to be more positive on the system of double majority. The Hispano-Polish coalition up until the elections in Spain held firm, even though occasionally in both countries the press wrote about the other side flinching away. At the time of writing the report¹⁵², just a few days after the change of government in Spain, it seemed that Zapatero's government will change its stand on the Constitution, however, not radically. It remains to be seen whether Poland will still cooperate with the Spanish on the issue. Regardless of most press comments, it seems that after all yes, because Spanish objective interests have not been altered overnight.

The Summit in Brussels on 12/13 December 2003

Most of Poles did not perceive non-agreement at the Brussels Summit as fiasco. 44% of respondents even conceded that the tough stance of the Polish Prime-Minister strengthened his position on the Polish internal scene (only 10% thought that it weakened him). 67% of the respondents supported the tough stance of the Polish delegation (only 15% were against it), 57%, moreover, were convinced that Poland should not change its position on the issue (31% would advise a more conciliatory approach).¹⁵³ The leading Polish daily "Rzeczpospolita" entitled its relation from Brussels with "The Prime-Minister came back with the shield not on the shield".¹⁵⁴ Undersecretary of State at the Polish MFA, Jan Truszczynski explained to everyone that the IGC was only suspended not ended.¹⁵⁵ Some commentaries and editorials in the Polish press criticised the Polish position and quoted certain opinions of the Western press which blamed Poland for the lack of compromise, but the general tone was ranging from mildly positive to neutral, especially after it became known that Poland was not the most recalcitrant of all protagonists of the Summit.

¹⁵⁰ Palacio, Ana and Cimoszewicz, Włodzimierz, "How to keep the balance in Europe's new treaty", „Financial Times“ 26.09.2003.

¹⁵¹ „Gazeta Wyborcza“ 18.11.2003.

¹⁵² in March 2004

¹⁵³ „Rzeczpospolita“ 18.02.2003.

¹⁵⁴ ibid.

¹⁵⁵ www.euro.pap.pl 18.12.2003.

The Polish officials stressed that fact that there were no negotiations in Brussels and that in reality no one wanted to discuss the compromise solutions put forward by Poland (especially France). A month after the summit, the Minister of Foreign Affairs concluded *‘Enough time has passed since the Brussels summit to permit a certain detachment and reflection. It is now clear that the intergovernmental conference was neither a success nor a failure. It was not a success because we failed to attain full agreement. But neither was it a failure -because agreement was reached on many issues’*.¹⁵⁶ Cimoszewicz continued by saying that perhaps it was premature to assume that the Convention's draft Constitutional Treaty embodied the best possible compromise and that one should not try to reach a compromise at any cost. According to the minister, Poland has not adopted an exclusively national view on key issues relating to the future European Constitution. The Polish ministry of foreign affairs came up with a few interesting compromise proposals but they were never seriously negotiated. Even though Cimoszewicz asserted that the Polish position on the voting system remained basically unchanged, one could detect certain willingness to compromise, albeit not necessarily on Franco-German terms.

Obviously no link is made in Poland between the failure of the IGC and the failure of enlargement, with an exception of those polemicists who opposed the government's tough line on votes weighing, who were worried about the possible deterioration of Poland's relations with its most important European partners.¹⁵⁷ However, as many as 43% of Poles believe that the fiasco of the Brussels Summit will result in the decrease of the Union's budget. Such conviction featured in most of the comments prepared by the mass media.¹⁵⁸

2. IGC: controversial issues

President of the Council/EU Minister of Foreign Affairs

In line with its support for the community method Poland was not the greatest supporter of a strong President of the European Council. The Polish government opposed all the moves aimed at creating a bureau because it was never a partisan of new intergovernmental institutions. At the same token Poland would not be too keen on endowing the permanent President of the European Council with too many important prerogatives. Warsaw would not oppose assigning general coordinating role to the President, however it would not support the British idea to allow the President to chair some of the formations of the Council of Ministers.

¹⁵⁶ Cimoszewicz, Włodzimierz, Let's talk about Europe, "Financial Times", "Le Monde" "Frankfurter Allgemeine Zeitung", 16.01.2004.

¹⁵⁷ See for example the interview with the former Prime-Minister Tadeusz Mazowiecki – The Failure of Europe, „Gazeta Wyborcza“, 14.12.2003.

¹⁵⁸ http://www.cbos.pl/SPISKOM.POL/2004/K_016_04.PDF

Poland proposes that all the other formations of the Council of Ministers apart from the Foreign Affairs Council and the General Affairs Council have, as a rule, a presidency for two years. According to the view of the Polish government, the President of the General Affairs Council should chair an informal Steering Committee consisting of the Presidents of respective Council formations. The Steering Committee would draft the Presidency's programme and oversee its implementation. President of the GAC would be responsible for working together with the President of the European Council and the European Commission on the preparation of work of the European Council.¹⁵⁹

The very delicate question - where shall be the executive structure of the Foreign Minister placed (in the Council or in the Commission) was not explicitly addressed by the Polish authorities. Poland shies away from taking a clear-cut position on that particular matter, which is quite understandable, especially taking into account the fact that the EU will probably try to fudge on the issue. It seems that Poland would be ready to support any pragmatic solution. If one were to place the executive structure under the Council, however, one should answer the question what to do with the Commission services (the representations abroad).

Commission

As indicated in the first edition of the CEEC-Debate Analytical Survey, Poland always shared the opinion that each member state should retain the right to propose a candidate for the European Commission. The Foreign Ministry always argued that effectiveness of the Commission is much more closely related to clear-cut division of responsibilities and greater transparency, than to size. The issue, however, did not top the list of Polish priorities during the Convention. During the negotiations it was to a certain extent used as a bargaining chip. The Polish government supported the small countries on that particular matter hoping that they in turn would support Poland when it comes to weighing of votes. No one in Poland was particularly happy with the system proposed in the draft Constitutional Treaty, as its introduction would certainly neither strengthen the Commission nor bring more coherence to the system. Poland has always argued that it is immensely important to guarantee each of the new members a seat at least on the first College after accession. According to Warsaw's reasoning, it is absolutely critical for the institution's democratic legitimacy within the new members. Therefore the compromise agreed during the last stages of the Convention (that the new composition of the Commission will not be introduced before 2009) was welcomed in Warsaw. Officially, Poland would still prefer the system one-commissioner one country, however it is ready to trade the issue for other concessions (if it were to be reopened). Warsaw hopes that the portfolio assigned to Danuta Hübner

¹⁵⁹ Reply from Poland to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers, CIG 26/03, DELEG 17, Bruksela 15.10.2003.

would be of certain importance. Internship at Pascal Lamy's seems to augur well for the Polish aspirations.

Definition of the qualified majority voting

Definition of qualified majority voting constitutes by far the most conscientious issue for Poland. Defending the Poland's position in the Council became the most important priority of the current government, which on that very point received the backing of the whole opposition.¹⁶⁰ The Polish Parliament issued two very strong declarations obliging the government to defend the Nice system of weighted votes.¹⁶¹ The Polish representatives at the Convention (at the outset, along with 18 other member states) manifested their disappointment concerning the institutional part of the draft treaty just after it has been submitted for discussion. The Polish government was of the opinion that the Convention did not have an explicit mandate to propose any changes of the definition of the system of weighed votes in the Council. As we can read in the materials prepared for the web page of the Polish MFA: "Nothing has happened since the Treaty of Nice to warrant a fundamental remodelling of the system. Nice itself was about preparing the European Union for enlargement. It did exactly that. As the Declaration of Nice states *"the Treaty of Nice completed the institutional changes necessary for the accession of new member States" and thus provided the basis for the Convention. Neither there nor in the Laeken declaration was the Convention given a mandate to revoke Nice*".¹⁶²

Most of the Polish arguments for the defence of the Nice system were summarised in the numerous articles and speeches of the Polish Minister of Foreign Affairs, Włodzimierz Cimoszewicz. Most importantly, according to the minister, *"The Nice system of voting in the Council offers a better guarantee of respecting such fundamental values and principles of European integration as solidarity, cohesion, striving for compromise, and seeking of an equilibrium in reconciling the interests of member countries and defining the common interest of Europe"*.¹⁶³ The Polish government is convinced that the Nice system - being the result of a difficult compromise reached by the 15 EU states - aptly defined the proportions between the member states of the enlarged EU in the process of Council decision-making, as put by minister Cimoszewicz in his article with Ana de Palacio: *"The*

¹⁶⁰ With an important exception of few important politicians – for example former ministers of foreign affairs Andrzej Olechowski („Rzeczpospolita“, 12.09.2003) and Dariusz Rosati („Gazeta Wyborcza“ 16.11.2003) Marcin Świecicki („Gazeta Wyborcza“ 10.12.2003), former prime minister Tadeusz Mazowiecki, and some influential Polish intellectuals, who even signed a letter concerning the issue.

¹⁶¹ The final version of the declaration was adopted on the 02.10.2003. The Polish text can be accessed at: [http://orka.sejm.gov.pl/opinie.nsf/nazwa/1985_u/\\$file/1985_u.pdf](http://orka.sejm.gov.pl/opinie.nsf/nazwa/1985_u/$file/1985_u.pdf) and http://ks.sejm.gov.pl/proc4/uchwaly/2322_u.htm

¹⁶² Discussion about European Constitution – arguments of the Minister of Foreign Affairs of the Republic of Poland, <http://www.msz.gov.pl/start.php>

¹⁶³ *ibid.*

*Nice voting arrangements express well the balance between small, medium-sized and large countries in the enlarged European Union”.*¹⁶⁴

Poland is especially concerned that the double majority system could weaken the position of two coalitions - the acceding states and the group of poorer states, which could in turn undermine the principle of solidarity. Certain Polish politicians also express fears that the new system makes it more likely for Germany and France to impose their views on the enlarged Union (it would be possible for them to convince or bully smaller member states into submission) and contrary to widely held opinions whatever is good for the Franco-German motor is not necessarily good for the EU (for example a frozen budget or frozen Common Agricultural Policy). Obviously, however, the greatest problem for Poland consists of the fact that the Nice system of weighed votes constituted one of the most important and advertised conditions of Poland's membership in the EU accepted by the population in the accession referendum.

The government also rejected the argument according to which the double majority system would be more democratic, as democracy based on proportional representation is the domain of the European Parliament (and that is where it should be implemented in full). The Polish MFA also tried to undermine the primacy of effectiveness in the decision making system, as minister Cimoszewicz asserted with conviction: *“Some tend to define efficiency in terms of how easy it is to take decisions, but to others efficiency has to comply with such basic values as the cohesion of the European Union. I believe that smoothness of decision-making procedures does not necessarily translate in the long run into strong cooperation. The art of compromise is a characteristic of European integration, yet it could be undermined if decision-making procedures are geared to pushing through decisions, rather than seeking agreement.”*

As mentioned at the beginning, the position of the government received a full backing of the opposition.¹⁶⁵ Jan Rokita – the leader of the main opposition party – the Civic Platform even coined the widely quoted phrase *“Nice or death”*.¹⁶⁶ The opposition was not certain whether the government will follow the tough line on the issue of voting weights and decided to limit its room for manoeuvre. Again as mentioned, before the Brussels Summit the Parliament issued a declaration urging the government to take a tough line. Recently, however, the rhetoric started to change. Regardless of stereotypes, it turned out that the Polish position was tough but not inflexible. Both the government and the Civic Platform, in contrast to most other opposition parties, are open for compromise. One would be to allow the Nice system to function and after a few years come back to the controversial

¹⁶⁴ Palacio, Ana and Cimoszewicz, Włodzimierz, "How to keep the balance in Europe's new treaty", „Financial Times“ 26.09.2003.

¹⁶⁵ EU lukewarm Law and Justice was especially adamant on the point.

¹⁶⁶ See: comments on the debate at the Polish Parliament „Rzeczpospolita“, „GazetaWyborcza“ 19.09.2003.

decision. Another would be to try to modify the Nice system in such a way as to improve the effectiveness of the decision-making system. Such proposals, however, so far have been labelled as no starters by Germany and France. Accepting double majority (even with slightly changed thresholds) is going, in turn, to be very difficult to accept for Poland.

Extension of qualified majority voting

All the assertions concerning QMV extension made in the first issue of the CEEC-Debate Analytical Survey still hold true. In principle the Polish government agrees supports the QMV extension however not unconditionally. The issue of QMV extension is the most sensitive from all of the Amsterdam leftovers. In contrast to many other aspects of EU decision-making, the question of majority voting is relatively straightforward and easy to understand. Therefore, the defence of unanimity became a pet-project of many Polish Eurosceptics, some of whom claimed, even before Nice, that the EU system relies too heavily on QMV, and that there is an urgent need for reconsideration of the *status quo*. Therefore one might link the lack of enthusiasm for an across the board extension of QMV with strictly domestic political consideration. Every government simply wants to appear as a defender of national sovereignty. Current Polish government might be more willing to support the extension of QMV than its conservative predecessor.

The government's representatives always admit that, besides the quasi-constitutional questions, for every country exist specific areas in which the defence of national interests is very important and therefore in which unanimity should be preserved.¹⁶⁷ There are certain fields, in which adverse consequences of QMV extension for Poland, and more generally – for poorer countries, are obvious, and most of them have been correctly identified by the government. Social policy is a good case in point. Both Polish representatives to the Convention, Danuta Hübner and Józef Oleksy are against the harmonisation of all social standards, and therefore would wish to see unanimity preserved in this particular area. According to them, there is a need to retain the differences between social models existing in the member states.¹⁶⁸ Obviously the most important argument behind that reasoning is financial. Poland would not simply have the necessary means to employ very high western standards in that field. Rationale for opposing the extension of QMV may, however, be also political. For example, Poland would want to retain veto rights as concerns taxation, because it wishes to pursue an independent policy in this specific area.

The issue of extending QMV in the realm of CFSP in reality appeared back on the agenda not in the draft Constitutional Treaty but later, in the form of an initiative taken by the Italian Presidency in December 2003. The Poland's stance on the issue is not clear-cut. At the beginning of the IGC the

¹⁶⁷ See for example the opinion of Danuta Hübner, *Europap*, 21.03.2002. www.euro.pap.com.pl

¹⁶⁸ *Europap*, 06.02.2003. www.euro.pap.com.pl

government reasserted its positive attitude towards the extension of QMV, in a certain sense to counterbalance its tough stance on the system of weighted votes. The Foreign Minister – Włodzimierz Cimoszewicz stressed in his text in the one of the leading Polish dailies “Rzeczpospolita” that Poland always was for the extension of QMV, as unanimity in many instances became a factor hampering the deepening of integration.¹⁶⁹ However, extending QMV to CFSP is very delicate, agreeing to it would have important repercussions. First of all, it would provoke the wrath of the opposition (with an exception of Civic Platform). Second of all it would alienate the British, whose support or at least neutrality is essential for Poland in the constitutional debate.

European Parliament

Again as asserted in the previous CEEC-Debate Analytical Report, throughout her work at the Convention Danuta Hübner believed that budgetary procedures have worked rather well, as she put it: *“there is a temptation not to try to mend something which is not broken”*. However, one should analyse closely the distinction between obligatory and non-obligatory expenditures. According to Hübner, it is strange that there exist important areas which cannot be influenced by the Parliament through its budgetary prerogatives.¹⁷⁰ The members of the opposition, who took part in the deliberations of the Convention, in their proposal aimed at simplification of the legislative and budgetary procedures explicitly opted for doing away with the distinction between compulsory and non-compulsory expenditure, precisely in order to strengthen the European Parliament.¹⁷¹ The Polish government supported the conclusions reached in the Convention strengthening the Parliament when it comes to the budgetary matters. Although it should be noted that the Italian Presidency, seemingly under the French pressure, decided to leave the last word in budgetary questions to the Council.

3. The ratification process¹⁷²

Both options of the ratification of the Constitutional Treaty are taken into account in Poland, namely a national referendum and voting in the Parliament. The anti-European opposition and the EU-lukewarm Law and Justice are campaigning for having a referendum. The pro-European parties tend to prefer voting in the Parliament, however, they might be put in a position in which it will be immensely difficult for them to openly object to the idea of a referendum. The level of support for the integration is dropping, the Constitution, however still is supported by the majority of population (72%). That support may wane very quickly if a negative campaign were to be launched. Such campaign –

¹⁶⁹ Cimoszewicz, Włodzimierz, We enter this river for the first time... „Rzeczpospolita“ 27.10.2003.

¹⁷⁰ Personal statement by Prof. Danuta Hübner, The simplification of legislative procedures in the Union.

¹⁷¹ Contribution of Marta Fogler and Edmund Wittbrodt, “Simplification of the legislative and budgetary procedures of the European Union”, CONV 280/02, CONTRIB 99, Brussels 01.10.2002.

¹⁷² *Rapporteurs* from Bulgaria and Romania do not have to answer this question, although they may present some hypotheses.

especially in the event of changing the system of weighed voting in the Council – is more than certain. The preamble and QMV extension are the two more issues, which are certainly going to be addressed by the Eurosceptics. The whole campaign will probably turn into a second accession referendum campaign where all EU related issues will be discussed – agriculture, rising prices, VAT etc. There is a quite considerable risk that the Constitution could be rejected.

4. Elections to the European Parliament¹⁷³

At the time of writing the report the final versions of the party lists to the European Parliament were not ready. However, certain trends can be deduced from the enunciations of certain political leaders. Serious political parties (the ruling social-democrats, the main opposition party – Civic Platform and Law and Justice) decided to put quite a few high profile names on their lists (for example Civic Platform's list will be embellished with 7 or 8 MP's from the national Parliament, former Prime Minister Jerzy Buzek, and former Minister of European Integration Jacek Saryusz-Wolski). Since the Polish Parliament opted for having 13 regional lists instead of one, every regional party structure has an ambition to decide what candidates to put forward. Such system favours politicians with strong grassroots, who, however, have less experience on the national scene. As a result the Polish representation in the European Parliament, just like most of representations of the current member states, is quite likely to be patchy - consisting of both well known, national politicians and obscure, regional party members, both people with expertise on EU affairs and people who do not know much about it. A question arises whether all of the political parties will resist the temptation to send to Brussels the politicians whose services in the national context are not longer required. Another question concerns the fate of a non-party list (put forward by a medley of famous Polish NGO's) consisting of important pro-European politicians who are not at the time being affiliated with any serious party.

The central issues in the electoral debate are very likely to be EU-linked. The EP campaign will probably turn into a continuation of the accession referendum campaign – both the supporters and the opponents of the accession will use similar arguments. However, certain things have changed. Because of the differences of opinion between Poland and some of the EU countries on constitution, budget, VAT and so on – the opposition parties will want to paint themselves as defenders of national interests and attack the government on the grounds that it has been too lenient vis-à-vis the EU. It seems, that national issues (taking into account a very weak position of the social-democratic government) are going to be of secondary importance.

¹⁷³ *idem*

5. Awareness of the IGC

National Parliament

The national Parliament very actively follows the IGC. The draft constitutional treaty was discussed on numerous occasions. Just to give the most important examples: On the 18th September 2003 the Parliament debated a declaration concerning the draft Constitutional Treaty.¹⁷⁴ During that very plenary session all of the political parties announced their respective European philosophies and voiced their opinions on concrete issues contained in the draft treaty. Another debate on the issue was organised just before the Brussels Summit, on the 10th of December 2003. On the 22 January 2004 the Parliament debated the government's statement concerning the Polish foreign policy in the year 2003. The heated debate lasted for the whole day. All the political parties presented their views on foreign policy. The debate revolved around three issues – the European Union, NATO membership (and situation in Iraq) and Eastern policy. Most of the speakers devoted considerable time to discussing the question of the Constitutional Treaty, mostly focusing on the outcome of the Brussels Summit. The opposition leaders congratulated the government on its strong stance concerning the issue of weighted votes.¹⁷⁵

Public opinion

Poland's public opinion does not differ much from the enlarged EU mainstream. However, when compared with their counterparts Poles are not the most enthusiastic about the Constitution. According to Eurobarometer, 72% of Poles think that the EU should adopt a Constitution (the enlarged EU average is 77%). Poles are clearly not as enthusiastic as the Italians (92%) or Hungarians (87%) but not as anti- EU Constitution as the British (51%) or the Swedes (58%). Only 56% of Poles think that Constitution is vital to the functioning of the EU's institutions – (the enlarged EU average is 67%) almost as many as the Euro-sceptic British (51%) or Danes (53%). 56% of Poles recognize the need for making concessions in order not to prevent the adoption of the constitution, most EU citizens are much more willing to make concessions, the EU average is 62%, however Poles are still far apart from the least prone to concession making nations of the enlarged EU – the Estonians (38%), the Slovenians (41%) or the Czechs (46%).¹⁷⁶

According to the Polish survey, in January 2004, as many as 71% of Poles have heard about the EU Constitution (however, only 19% more or less know what is the project about). It proves that more and more people learn about the substance of the IGC, in October 2003 only 59% of the respondents have

¹⁷⁴ The final version of the declaration was adopted on the 02.10.2003. The Polish text can be accessed at: [http://orka.sejm.gov.pl/opinie.nsf/nazwa/1985_u/\\$file/1985_u.pdf](http://orka.sejm.gov.pl/opinie.nsf/nazwa/1985_u/$file/1985_u.pdf)

¹⁷⁵ The debate can be followed in Polish at: <http://ks.sejm.gov.pl:8009/search97cgi/>

¹⁷⁶ Flash Eurobarometer 159, January 2004. http://europa.eu.int/comm/public_opinion/flash/fl159_fut_const.pdf

heard about the Constitution.¹⁷⁷ According to Eurobarometer, Poles generally consider themselves to be badly informed on the issue of Constitution – 67% agree with such statement, quite close to the enlarged EU average of 71%, but ages apart from the least well informed nations of the old continent – the Finns (87%) or the Portuguese (80%). In order to test the respondents’ knowledge on the Constitution – a question was asked whether the president of the European Council will be elected by direct suffrage – only 35% of Poles knew the right answer (not that far from the enlarged EU’s average, which was 41%, and much better than the average in the 10 Acceding States, which was 29%).¹⁷⁸

42% of Poles believe that the Constitution will be adopted, whereas 25% are sceptical. 36% of Poles support the idea to retain the Nice system of weighed voting, 33% believe in compromise and 8% are in favour of double majority. Researchers tend to agree that the recent negative trend concerning the public support for EU integration (-8% from October 2003 to January 2004) is in part due to the acrimonious debate on the issue of weighed votes. Still a majority of Poles (61%), however, support the EU accession.

Media coverage

The media coverage of the first three months of the IGC was extensive. There hardly is a day when major Polish dailies (“Gazeta Wyborcza”, “Rzeczpospolita”, “Zycie” or “Fakt”) do not report a fact concerning the IGC. Obviously the question of weighted votes tops the agenda, however all of the other important aspects of the draft constitutional treaty were also covered (the preamble, the charter of fundamental rights, the extension of QMV, the questions related to ESDP –most widely). In the passing months the Polish press featured numerous editorials (around a 100) concerning draft Constitutional Treaty (again mostly about weighted votes) written by politicians, experts and numerous authorities both Polish and foreign (Cohn-Bendit, Raffarin, Fisher, Verheugen etc.).

¹⁷⁷ CBOS, http://www.cbos.pl/SPISKOM.POL/2004/K_016_04.PDF

¹⁷⁸ Eurobarometer, *ibid.*

National Report Romania

by Mirela Pitu, Synergy: Research, Public Affairs and Communications, Bucharest

1. Outcome of the Intergovernmental Conference

Due to the complexity of the Convention meetings on the European future (the first preliminary and preparatory phase of an Intergovernmental Conference) the IGC 2003 had a special status. The project of a Constitutional Treaty prepared by the Convention has been on the agenda of the ongoing IGC. One of the major challenges of the Italian Presidency was to improve this project in its critical aspects and to ensure continuity based on a minimum consensus, which is a rather difficult issue, considering experience of the previous Intergovernmental Conference, as well as the controversies related to some special issues that affected the Convention works and further compromised the success of the IGC.

As it was specified in the Conclusions of the European Council in Thessalonica, which concluded the Greek Presidency, the Intergovernmental Conference started in October last year had to finalise the objectives pursued by the Convention and to speed the approval process of the Constitutional Treaty so that in June 2004, when the elections to the European Parliament will take place, the citizens of Europe could have access to the final version of the document.

All participant states (member states or candidate states), have set out, at least verbally, as a common objective of the IGC the adoption of the European Constitution. For the European area though, at a governmental level, as well as for the academic and civil society discussion, there was a necessity to revise some chapters for which there was no consensus among participant states by the end of the Convention meetings. The Romanian government subscribed to this general trend.

Romania, as well as Bulgaria and Turkey had an observer status during the ICG, a position that influenced the views presented by the Romanian officials. In fact this position is justified by the fact that Romania is not among the states that will join the Union in the first wave, therefore some provisions of the new Constitutional Treaty will not have a major impact on Romania's relations with the European Union in the near future.

Therefore, for the Romanian government the expected outcome of the IGC was the adoption of the Constitution, with some amendments, previously discussed and negotiated during the Convention debates on institutional and constitutional reform, from the starting of the Convention works to the end of the IGC.

After the summit in Brussels in December 2003, when analysing the gap between expectations and preliminary results of the IGC, the Romanian officials recognised a “temporary failure”¹⁷⁹ which could and should be overcome: *“From a point of view, it’s better a good Constitution later, than an inefficient Constitution based on quick and conjuncture compromises adopted now. Of course, that time pressure forced us to take into account various alternatives. Some of them could not be analysed in the few hours we spent here.”*¹⁸⁰

Coalition building

From the end of the Convention works to the European Council in Brussels in December 2003, especially during the three first months of the ICG, there had been no important changes in the official position of the Romanian government on EU reforms.

The affiliation to different alliances built around the French-German alliance, on one side, and the Polish- Iberian alliance, on the other side, would not have been compatible with the observer status of Romania. In that phase of negotiations, which generated afterwards political disputes in attempts to impose either the system of double majority, suggested by the Convention and supported by Germany, or the complicated system of the triple majority, proposed in the Treaty of Nice, and promoted by Spain and Poland, the positioning of Romania on either side, even on a declarative level was not absolutely necessary. However, during some meetings which took place in parallel with the IGC meetings, Romania (Adrian Severin, former representative of Romania in the Convention, from the Romanian Parliament part) expressed its support for the endorsement of some provisions to facilitate a flexible revision of the treaty, as well as for maintaining the double majority system, suggested by the Convention and included in the draft Constitutional Treaty¹⁸¹.

Another controversial issue on the IGC agenda was that extension of the qualified majority vote does not affect key areas of an enlarged Union and its functioning: the foreign policy and the common foreign and security policy, the common commercial policy concerning the intellectual property and services, fiscal policy, etc. In this context, according to Adrian Severin’s opinion, the outcome of the summit itself is an evidence of the fact that maintaining the unanimity system is ineffective and could lead to some decisional blockings. Severin recommends, in the context of another meeting of the national parliamentarians, to resume without any delay the IGC meetings and focus exclusively on unsettled issues.

¹⁷⁹ Press conference of the Prime Minister Adrian Nastase after the completion of the ICG, 13 December 2003.

¹⁸⁰ Ibid 1

¹⁸¹ At the *Committee on Constitutional Affairs, Joint meeting with national parliaments*, held on November 24, 2003 at the European Parliament, Adrian Severin suggested that all opinions expressed by European and national parliamentarians should be included in a joint declaration on the issues debated during the IGC.

The Summit in Brussels on 12/13 December 2003

Although the result of the summit in Brussels was considered by the Romanian executive as an „surmountable failure” with respect to the European reform, political declarations of Romanian officials avoided such terms as „disaster”, „disillusion”, „total failure”, „fiasco”, „crisis” or „collapse”, which kept the headlines of the West European newspapers. *“It is not failure in the sense that we turn off the light in the conference room, consider the reunion closed and expect for a new format. The IGC will continue. It is only a temporary failure or let’s say an objective which was not accomplished at deadline. Some participants anticipated the failure or they did not come sufficiently prepared to overcome it at this moment (...) either ways, this process of construction, of institutional building will continue.”*⁵ Invoking the phrase uttered by the president Chirac, *„the history of Europe is a history of overcome failures”*, the Romanian Prime Minister appreciated however the consensus obtained in areas related to the defence policy (with respect to the main European agencies involved in this domain) and the adoption of a Security Strategy.

On the other hand, for Romania, a country still involved in the accession process, the results of the summit are positive and seen as *“an extraordinary chance for the future”*, as a representative of the Romanian Government stated. According to the conclusions of this last summit, Romania and Bulgaria received firm guarantees for future negotiations, stipulating a certain date for joining the EU set for 2007, *“if they are prepared”*, a message that should not be ignored by the executives of the two countries.

The Head of the Romanian diplomacy, Mircea Geoana, considers that the interests of member states in setting precise terms for Romania and Bulgaria for joining the EU are proof of a perceived remarkable political relationship between the two countries and the European Union. A positive appreciation of the conclusions of the European Council In Brussels as a confirmation of the declaration of the previous summit, in Thessalonica, when it was specified that the enlargement process would not end without Romania and Bulgaria, Mircea Geoana remains optimistic about the political atmosphere of a “real partnership” which sets the framework of cooperation between the two countries and the EU.

Beyond these immediate optimistic reactions, the representatives of the Romanian government are more detached and realistic about the negative impact that the failure of the constitutional negotiations might have on the enlargement process and, implicitly, on Romania. Although many participants at the European Council emphasised that there should be made no connection between the failure in the adoption of a European Constitution and the enlargement process, many others claimed that the

⁵ Ibid

enlargement process generates in fact the greatest difficulty in the decisional mechanism, especially if we take into account the change of demographic structure and the voting percentage. According to the Romanian Prime Minister, all these aspects generate “*an anxiety at the public opinion level in member states*”, and for this reason, although “*Romania leaves the summit pleased with the results, there must not be ignored the fact that the process is a little bit in fibrillation*”, and there is a risk - if we are not careful- that the fear, the questions, the dissatisfactions and the frustrations that dominate the European climate could affect Romania.

In an attempt to provide a hierarchy - maybe in a much too categorical and pragmatic manner – for priority interests of Romania, the head of the Romanian government stated that by 2007, neither the Nice institutional provisions nor the ones that stood as ground for discussions at the IGC 2203/2004 will be relevant for Romania. In this context, Romania’s interest in the near future would rather concern the creation of a harmonious framework for debates, not hostile for the negotiations with future members.

Concept of a multi-speed Europe

The failure within the IGC brought back in foreground the discussions about the project of an “*Europe with more speeds*”/ “*Two speeded Europe*”, “*multi-speed Europe*”, thus generating comments about the opportunity and the efficiency of creating a “core Europe”.

The official position presented by Romania oscillates between the most moderate point of view, expressed by the Prime Minister Nastase and the assertions of Adrian Severin who argues that such a multi-speed evolution of the European construction is worth to be taken into account. Furthermore, the later one considers⁶ that the alternative of “two speeded Europe” is not to be avoided as it belongs to a natural process of integration, announcing thus Romania’s interest in taking part in this process.

More sceptical than his colleague, the head of the Romanian executive recommends a deep analysis of how the concept of a multi-speed Europe, brought back into discussion by Schroeder at the beginning of the year 2004 could negatively affect the integration process. In saying that, Nastase emphasised that such a concept would increase differences and discourage the convergence. If these “core countries” would try to maintain and even increase the distance from other groups of states, Nastase foresees a negative impact on the process of European integration, “*should that happen, then it could*

⁶ Adrian Severin, point of view expressed at the Committee on Constitutional Affairs, Joint Meeting with national parliaments - Exchange of views on the result of the IGC meeting at Heads of State or Government’s level – December 15, 2003, Strasbourg

*mean the beginning of the end*⁷. On the contrary, the core countries should act as a “*magnetic force*”, stimulating other EU members to apply the same rules and subsequently to get similar benefits.

In an interview given to the Radio France International (RFI), just after the beginning of the IGC, Adrian Nastase said that, on the whole, Romania’s position is very close to the majority position, namely that the current text reflects a valuable compromise between different opinions of the member and candidate states. Nevertheless, he supports the necessity of some provisions allowing a more flexible revision of the Treaty, which will also provide scope for further amendments in line with the EU developments.

The representatives of the civil society and the academia have predicted the preliminary results of the IGC, with its negative and successful parts. The conclusions of the Summit in Brussels illustrated the controversies which characterised the IGC from the very beginning: *“Between the declarative show, concentrated on the apology of radical reforms and the defensive attitude in front of the specific elements of this radicalism, the participating states are far from that consensus that scarifies national interests for the sake of an enlarged Europe, with a functional and transparent system”*⁸.

2. IGC: controversial issues

President of the Council/EU Minister of Foreign Affairs

The problem of the Council presidency and the newly proposed position of the European Minister of foreign Affairs were at some point sensitive issues during the initial debates of the IGC; however the controversy was more obvious at the time of the Convention works and less within the ICG.

From the very beginning, the concept of a “double hat” got a special attention and it generated pro and counter arguments and, in a shorter perspective, the risk of an interference between competences and responsibilities of the two new positions. This risk was also emphasised in some debates attended both by representatives of the Romanian civil society and experts on European affairs. From a Romanian point of view, the external representation of the European Union needs an increased level of efficiency, consistency and credibility. At this point, the opinion expressed by the Romanian officials during the Convention’s works and the IGC was in line with the general trend for merging the two positions (High Representative for CFSP and Commissioner in charge of external relations) and for

⁷ Adrian Nastase, Romania in a renewed European Union, discourse at the University of Humboldt, Berlin, January 9, 2004

⁸ Truica, Gilda, *Institutional Reform: between the consequences of the Nice summit and the mission of the ICG*, Romanian Journal of European Affairs, vol. 3, no. 4, IER, December 2003.

establishing a new position –the European Minister of Foreign Affairs, which would simultaneously be the Vice-president of the Commission, with a right of initiative in EU external action and responsible before the European Parliament and the Council. As concerns the external representation, the responsibilities of the new permanent President of the European Council risk to overlap with those of the Foreign Minister and partly with the “representational” activities of the President of the Commission, the Prime Ministers and the Ministers for Foreign Affairs of the member states. This interference in responsibilities could generate a confused external representation.

The Romanian government agrees that the representatives of the member states should hold on the basis of an equal rotation the chair of the Council’s formations, with the exception of the Council of General Affairs and the Council of Foreign Affairs.

During one of the ministerial reunions, which took place in October 2003 in Brussels, the Romanian delegation presented its point of view concerning the debated issues: the Council formations and their presidency as well as the application of the qualified majority vote. Romania, similarly to the majority of participating countries, welcomed the proposal of the Italian presidency regarding the “team presidency” for sectorial Councils. According to this proposal, three or four states would share the presidency of these Council formations. For the Romanian officials this formula would provide at best an equal involvement of member states in running the Councils and a better co-ordination at the team level. The Romanian support for the proposal of the Italian Presidency means, implicitly, that this country agrees on completing the draft Constitutional Treaty with some additional provisions referring to, including the future competencies of the Minister of Foreign Affairs, the dismissal procedure as well as the derogation of the Minister from the obligation of independence from the member states when he acts in the CFSP area.

Romania also supports the idea that the Minister of Foreign Affairs should run the Council for External Affairs, thus contributing to the CFSP coherency. With respect to the mandate of the presidency of sectorial councils, Romania is for a 1-year mandate, as the treaty already stipulates.

Commission

The Romanian officials expressed different opinions with respect to the structure and dimensions of the Commission: they supported both a Commission with a reduced number of commissioners but with a direct democratic legitimacy (Severin) and a Commission in which all Member States should be represented (Puwak, Hasotti, Ene). From the point of view of the Romanian Prime Minister, the Commission should have as many Commissioners as many members in the EU, according to the principle “one state – one commissioner”. A restriction may be accepted, provided that the states that

are not represented in the Commission during a determined period could organise “task forces”. The presidents of these structures should hold a rank between General Director and Commissioner. During the ICG debates, the Romanian officials supported the principle “one state – one commissioner”, though without excluding a possible compromise, which seems not to be fully accepted by the big member states (e. g. France). There are some voices, especially among experts in institutional issues, which support the solution proposed in the draft Constitutional Treaty, namely the election of additional commissioners – “ associated commissioners”, without the right to vote. Their election would take place in accordance with the rules for the election of the members of the College..

Definition of the qualified majority voting. Extension of qualified majority voting .

The main controversial issue that was at the origin of the preliminary failure of ICG was the question of the qualified majority voting, including issues related to its definition and its extension to new areas such as CFSP, taxes, etc. Having to choose between the two definitions of the QMV--one proposed by the Nice Treaty and one proposed by the draft Constitutional Treaty, which simplifies the Nice system, Romania firmly pleaded for the later one. Other political actors and civil society organisations supported this position.

Romania is in favour of extending the QMV to other policy fields such as CFSP, environment, social affairs, justice, home affairs, taxes, commercial policy, intellectual property, flexibility, the future enlargement of the EU, financial prospects, as well as the structural funds. On 20 and 21 November 2003, in Rome, Romania welcomed the Convention’s proposal for extending the QMV to JHA (Justice and Home Affairs). The Romanian delegation welcomed the idea of “passage provisions”, which by a unanimous decision of the European Council would allow the adoption of some decisions by qualified majority when voting in the Council of Ministers (decisions which should in principle be taken by unanimity).

European Parliament.

Romania supports the idea of a Parliament with larger competencies in budgetary matters, especially with regard to the efficiency of expenditures and a successful accomplishment of common projects.

3. Awareness of the IGC

The representatives of the Romanian Parliament have not been constantly involved in organised debates or in the dissemination of specific information related to the IGC, at their level of activity.

Members of the specialised commissions (the European Integration Parliamentary Commission and the Commission of Foreign Affairs) had access to the Romanian version of the Constitutional Treaty. Representatives of the civil society, academia, political parties and lobbyists had also access to this material. The parliamentarians, which represented Romania at the Convention, took part, individually, before and after the ICG meetings, in various conferences, seminars, and round table debates. On these occasions they exposed their views on specific provisions of the draft Constitutional Treaty, especially those regulating future responsibilities of national parliaments at the European level.

Adrian Severin, former deputy member of the Convention on behalf of the Romanian Parliament, participated in various meetings of national parliamentarians, within the Committee on Constitutional Affairs of the European Parliament. On several occasions, Adrian Severin presented, in his own name, or officially on behalf of Romania views related to the agenda of discussions.

Public opinion

The public takes notice of the discussions of the IGC via E-news, newsletters, information presented on websites of specialised institutions, and mass media. The Ministry of Foreign Affairs set up a special Task Force within the EU General Directorate, in charge of preparing newsletters on the ICG work progress. However, other special instruments designed to disseminate the ICG-related information have not been used and for this reason only the specialised public directly involved in the process has been familiar with this specific information.

Other public institutions including research institutes, Chambers of Trade and Industry, Universities (ex. the University of Bucharest, the Franco- Romanian Law College) – organised public conferences, round table debates, discussions and scientific sessions, where the participants analysed the discussions within the ICG. Some papers presented at such reunions have been later published with help from certain European institutions and programs and thus made available for a larger public.

The public impact of the process of dissemination of information related to the constitutional and institutional reform has not been noticeable, as some controversial aspects of the ICG have been too technical or too specialised to be fully understood by the general and not expert public. The general perception was that the ICG negotiations have not been very fruitful; however the public seems not to be aware of the fact that a possible deadlock in the negotiations for a European reform could affect Romania's position as a future member of the EU.

Media coverage

The media coverage of the ICG discussions was good in comparison with the coverage for the previous ICG meetings (for example preparing Nice in year 2000). The press and the television, insisted especially on the controversial details as well as on the scandals generated by the polemics of the representatives of the governments (Berlusconi's declarations, the conflict between the Polish Prime Minister and the German Chancellor etc.). The news-channels and the specialised press have extensively presented all these aspects. In addition to the information related to the tensions which marked the political relations between the Franco-German alliance and the Spanish-Polish group during the IGC meetings (primarily regarding the definition of the QMV), the controversies about the future structure of European Commission and the implications of establishing the position of the European Minister for Foreign Affairs, the Romanian mass media also focused on the final outcome of the ICG with its positive and negative results. The ICG results were presented in press statements and press conferences organised by the Prime Minister, the Minister of Foreign Affairs, the Minister of European Integration and the Chief-Negotiator with the EU, where the focus was on the positive aspects, including the advantages and certitudes (a clear date for the joining the EU) received by Romania during the ICG.

National Report Slovakia

by *Vladimir Bilcik, Slovak Foreign Policy Association, Bratislava*

1. Outcome of the Intergovernmental Conference

Since the inception of the Intergovernmental Conference Slovakia has supported the adoption of an amended draft text worked out by the Convention on the Future of Europe. Proposals for amendments put forward by the Slovak government cover several issues, including composition and work of the European Commission, the European Council and the Council, definition and application of qualified majority voting (QMV) and future of the CFSP. Paragraphs below deal with such institutional issues in more detail.

The position adopted by the Slovak government for the IGC on 2 October 2003 stated that Slovakia considers the text produced by the Convention “*a good basis for negotiations during the IGC.*” In addition to institutional concerns, the country’s official stance raised two other matters. Namely, “*Slovakia is going to push for a change in the name of the final document that should read ‘Constitutional Treaty of the EU’ throughout the whole text of the future new basis of primary law in the Union. Slovakia will also support a mention of Christian values in the preamble of the Constitutional Treaty of the EU based on a concrete suggestion for changes to the proposed text.*”¹⁸²

Throughout the first months of the duration of the IGC Slovakia (i.e. Slovak government) exhibited some flexibility in its positions and indicated willingness to compromise in order to achieve an agreement on the Constitutional Treaty. Whilst the principle ‘one country one Commissioner’ was at the core of the country’s position and on this issue Slovakia received broad backing from other acceding countries and many current member states, the government appeared more willing to accept different formulas defining qualified majority voting (QMV) – a crucial matter of the IGC. At the beginning of December 2003 Prime Minister Mikulas Dzurinda stated that if Nice and the outcome of the Convention are not acceptable, “*it is necessary to find a third alternative, a new formula*”¹⁸³

Depending on the context of debate, Slovak government emphasized different points ranging from support for the Polish insistence on the Treaty of Nice (especially in earlier domestic discussions) to

¹⁸² These and subsequent quotes (unless indicated otherwise) are the author’s translations of the official position adopted by the Slovak Government on 2 October 2003. The text of the position can be found at http://www.foreign.gov.sk/files/stanoviska_sr_mv_k_rome.doc

¹⁸³ Briefing by the Prime Minister Mikulas Dzurinda after a working visit to Paris upon an invitation by the French Prime Minister Jean-Pierre Raffarin to a meeting of prime ministers subscribing to a membership in the European People’s Party, 4 December 2003.

understanding for German arguments.¹⁸⁴ However, once it became clear that nothing short of a compromise could lead to a successful outcome at the close of the Italian Presidency Slovak Foreign Minister Eduard Kukan expressed his doubts about the Polish position: *‘Poles are taking a big risk. They staked everything on one roll of the dice, and presented their point of view in a way which gives Poland no chance of retreat.’* Similar sentiments were echoed by Czech Foreign Minister Cyril Svoboda who said, *“Poland has made a tactic mistake”*¹⁸⁵ At the summit in Brussels in December 2003 Prime Minister Dzurinda indicated the government’s openness to different scenarios when he said, *“Nice is fine’ but let’s not paint a black picture of double majority; Schuessel [Austrian PM] says 60 and 60 [formula for a double majority] – and I have no problem.”*¹⁸⁶

In sum, along with a number of other countries Slovakia maintained its firm position on the composition of the Commission but unlike Poland (and countries like France and Spain) - and like other Visegrad partners: Czech Republic and Hungary - it was willing to alter its stance on QMV. According to one Slovak diplomat, the country adopted a stance of “the least resistance.” To put it simply, Slovak government was more interested in attaining an agreement on the Constitutional Treaty than in sticking to Nice. Hence, the Slovak Prime Minister was naturally disappointed that the summit in Brussels did not reach a deal on the proposed Constitution. However, it was no tragedy. In the aftermath of the Brussels European Council he very clearly reaffirmed that the EU could go on functioning and that *“the process of enlargement is in no way under threat”*.¹⁸⁷

Since by early 2004 the fate of the Constitutional Treaty remains uncertain, Slovakia has adopted a two-track approach. On the one hand, it keeps its options open by emphasising that “[the] *system from Nice should get its chance to prove that it is viable.*”¹⁸⁸ On the other hand, it is simultaneously hoping that there can be an agreement on the Constitutional Treaty by the end of the Irish presidency of the EU.¹⁸⁹ Among other reasons, Slovak government would like to get a deal on the Constitutional Treaty as soon as possible in order to concentrate fully on parallel EU-wide negotiations, most notably the financial perspective for the period of 2007 – 2013. Yet, it recognizes that an agreement may not be possible and that the Union will potentially have to operate under the rules of the Treaty of Nice for some years to come.

¹⁸⁴ Expressed during a press conference on the occasion of Gerhard Schroeder’s official visit to Slovakia, 29 October 2003.

¹⁸⁵ Foreign Minister Eduard Kukan quoted by Press Agency of the Slovak Republic (TASR), 10 December 2003. Also see: <http://www.poland.pl/articles/print.htm?id=73642>.

¹⁸⁶ Press conference of the Prime Minister Mikulas Dzurinda, Brussels, 12 December 2003.

¹⁸⁷ Slovak daily *SME*, 13 December 2003.

¹⁸⁸ Foreign Minister Eduard Kukan on the occasion of a visit to Bratislava by his Polish counterpart Wlodzimierz Cimoszewicz, quoted in Slovak daily *SME*, 27 February 2004.

¹⁸⁹ See the transcript of Mikulas Dzurinda’s press conference after the meeting of the European Council on 26 March 2004 (<http://www.government.gov.sk/>).

2. IGC: controversial issues

President of the Council/EU Minister of Foreign Affairs

According to the official governmental position, Slovakia “*supports the creation of a position of the Union Minister for Foreign Affairs. (Article I-27) However, it also supports an exact delineation of his or her relationship to the President of the European Council and his or her responsibility to the Council on the one hand and to the European Commission on the other hand.*” Yet, the Slovak official position does not specify how these responsibilities should be delineated. One can only infer that Slovakia favours some sort of a double-hatting role of the future Minister for Foreign Affairs with shared responsibilities vis-à-vis the Commission (external relations, DG RELEX) and the Council (CFSP, ESDP).

Slovakia also maintained a soft version of its original opposition to the establishment of the permanent post of the President of the European Council. Namely, “[s]hould the issue of the President of the European Council be re-opened, Slovakia holds its original position in support of maintaining the rotating presidency of the European Council.” At the same time it called for “*a much clearer specification of the principle of rotation with respect to the proposed President of the European Council and with respect to the presidency of sectoral Councils.*” Hence, Slovakia prefers a limited role of the future President of the European Council and supports a formula that would ensure both equal representation and regular rotation of all member states in presidencies of different Council formations. Finally, Slovakia “*does not support the creation of a legislative Council (Art. I-23).*”

Commission

The makeup of the European Commission represented a point of general cross-party consensus. No major force or group argued in favour of reducing the number of Commissioners or creating different categories of Commissioners (such as European Commissioner and Commissioner). The issue quickly became the political cornerstone of Slovakia’s stance that in important ways reflected upon broader divisions between smaller and larger states in the context of the Convention. Official governmental position summed up that “[t]he composition of the European Commission represents the main priority of the Slovak Republic. Slovakia is interested in keeping a strong Commission and the principle of two categories of Commissioners does not guarantee the maintenance of the Commission’s strong standing. Slovakia supports the principle ‘one country – one Commissioner’ with equal powers for all members of the Commission. It does not see a difference in the effective work of a Commission composed of 20 or 25 members.”

Definition of the qualified majority voting

The Slovak government is not satisfied with provisions guiding qualified majority voting (QMV) as introduced in the Draft Constitutional Treaty. In the proposal of Slovakia's position for the IGC published prior to 2 October 2003 and available via official web pages of the Slovak government, the country "supports the change of the proposed article I-24, so that qualified majority will be defined at the very least as composed of 60 percent of all member states and 60 percent of EU population."¹⁹⁰ Yet, following negotiations in the government Slovakia adopted the official position according to which the country will favour 'keeping the system of qualified majority agreed in Nice.'¹⁹¹ This complemented the Slovak parliament's resolution from 23 September 2003 (not binding for the final position adopted by the Slovak government) that supported the change of the proposed system of QMV towards "maintaining the current weight of smaller member states". By the spring of 2004 Slovakia appeared open to a compromise solution for the new mechanism of QMV in order break the deadlock over the Constitutional Treaty.

Extension of qualified majority voting

The government's position on the extension of QMV is quite clear: "Slovakia does not support the use of qualified majority voting in the areas of taxation, social policy and defence and hence will not support proposals calling for the application of QMV in these fields. Also, in the area of economic and social cohesion Slovakia disagrees with the move from unanimity to QMV after 1 January 2007. Finally, Slovakia will be against the weakening of the principle of unanimity in the areas of criminal law, justice and police cooperation, asylum, migration and culture." Slovakia's position on taxation or harmonization of criminal law reflects the attitudes of such countries as the Great Britain or Ireland.¹⁹²

European Parliament

The future role of the European Parliament, for instance vis-à-vis its budgetary powers, merited virtually no domestic attention. Perhaps hands-on experience with the work of the EP after EU enlargement may trigger some meaningful debate on future competences of the European Parliament.

CFSP and direct democracy in the EU

Two other issues from Slovakia's official position are worth noting. First, Slovakia has expressed several points of concern with respect to articles I-39 and I-40 that deal with the future of the Common Foreign and Security Policy (CFSP) and European Security and Defence Policy (ESDP). Essentially,

¹⁹⁰ <http://www.rokovania.sk/appl/material.nsf/0/020B4535F499393BC1256DB100396858?OpenDocument>

¹⁹¹ http://www.foreign.gov.sk/files/stanoviska_sr_mv_k_rome.doc

¹⁹² Confirmed during the joint press conference of the Slovak Prime Minister Mikulas Dzurinda and the Irish Prime Minister Bertie Ahern, Bratislava, 6 November 2003.

the country is worried about potentially different levels of cooperation and integration in these policy fields and about the future of EU-NATO collaboration. While it supports the solidarity clause and also supports the application of enhanced cooperation in the area of CFSP, it *“prefers to raise the threshold for triggering the mechanism of enhanced cooperation from one third to one half of all member states. Slovakia has a negative attitude toward the possibility of creating an exclusive group of states that permanently attain a higher degree of integration in the field of common European security and defence policy. Hence, according to Slovakia, the mechanism of enhanced cooperation is sufficient for the purposes of structured cooperation.”* Slovakia supports cooperation in the area of mutual defence with the exception of structured cooperation (article I-40, par. 6) Finally, Slovakia favours the maintenance *“of the current state whereby the European Court of Justice does not possess jurisdiction in the area of CFSP”* (except, of course for cases foreseen in Art. III-209 and III-282).

The second matter concerns the need for clarification in the area of direct democracy. Slovakia *“demands the specification of the term ‘a significant number of member states’ in the article I-46, paragraph 4 enabling a citizens’ initiative whereby the Commission may be asked to prepare an appropriate proposal on matters where citizens consider that a legal act of the EU is required for the purpose of implementing the Constitution.”*

3. The ratification process

If governments of EU member states agree on the Constitutional Treaty, the subsequent process of domestic approval in Slovakia can take place in two ways: either in the Slovak parliament or via a national referendum. Successful ratification of the Constitutional Treaty will then require the signature of the President of Slovakia.

National referendum on an important issue of public interest¹⁹³ can be initiated in two ways: either through a request tabled and approved by members of parliament or through a public petition supported by signatures of at least 350 thousand Slovak citizens. The President of Slovakia calls a referendum based on either a successful parliamentary request or a successful public petition. The result of a referendum is only valid if more than 50 percent of Slovakia’s eligible voters take part. Since its establishment in 1993 Slovakia has only had one valid referendum - on EU accession held on 16 – 17 May 2003.¹⁹⁴ All other referenda have been unsuccessful due to a low turnout.

¹⁹³ Budgetary questions, taxes and basic human rights and freedoms are excluded.

¹⁹⁴ 52.15 percent of voters participated and 92.46 percent of those supported Slovakia’s entry into the Union.

Thus far the majority of parliamentary political parties have indicated that they would prefer the ratification procedure in the parliament.¹⁹⁵ The largest opposition party SMER (Direction) has not presented a clear stance. Another opposition force - Vladimir Meciar's Movement for Democratic Slovakia (HZDS) – has thus far communicated its preference for a parliamentary approval. On the other hand, one coalition party with Euro-sceptic leanings – Christian Democratic Movement (KDH)¹⁹⁶ – and a small opposition party Ludova Unia (People's Union)¹⁹⁷ support a national referendum. Outside the Slovak parliament, a small Euro-sceptic Civic Conservative Party (OKS) has been vocal both in its opposition to the Draft Constitutional Treaty and in its request for a national referendum about the new treaty.

In sum, only parties that might resist the adoption of the Constitutional Treaty clearly fancy a referendum. Since most political forces are in favour of adopting the Draft Constitutional Treaty with some small modifications, they do not wish for further complications brought about by a possible referendum and foresee a relatively smooth vote of approval in the Slovak parliament.

Yet, there is always a chance that the public gathers at least 350 thousand signatures and initiates a national vote on the Constitutional Treaty. If this happens, one can expect that many politicians rejecting a referendum on various grounds today may be forced to change their tactics.¹⁹⁸ After all, perhaps the biggest single obstacle for adoption of the Constitutional Treaty offers a scenario whereby a referendum is successful (more than 50 percent of eligible voters participate) and the majority of voters reject the treaty.¹⁹⁹ In such a case, according to current constitutional provisions the Slovak parliament has to accept the referendum's outcome and at least three years must elapse before the country holds a new referendum with the same question. While the likelihood of the aforementioned outcome is very low, the matter of whether or not Slovakia organizes a referendum on the Constitutional Treaty remains still wide open.

¹⁹⁵ Representatives of Slovak Democratic and Christian Union (SDKU), Party of Hungarian Coalition (SMK) and Alliance of a New Citizen (ANO) expressed their respective opposition to a referendum during the meeting of the National Convention on the European Future of Slovakia held in June 2003.

¹⁹⁶ In the course of domestic negotiations on government's position for the IGC the KDH ministers demanded that Slovakia rejects the inclusion of the Charter of Fundamental Rights in the Constitutional Treaty. KDH's opposition to the Charter stems principally from a conservative definition of family and its outright rejection of abortion. According to some KDH politicians the Charter could in the future pave the way toward EU-wide legalisation of homosexual marriages or abortions.

¹⁹⁷ Interview with Rudolf Žiak, MP for People's Union, *Národná obroda*, 7 October 2003.

¹⁹⁸ Many politicians opposed to a national referendum articulate concerns about Slovakia's bad experience with past unsuccessful referenda. Some also argue that since the contents of the Draft Constitutional Treaty do not represent a fundamental qualitative change from the existing treaties, a referendum is not necessary. Others point to the questionable ability of voters to decide and say that Slovak public would not understand the intricacies of the Constitutional Treaty.

¹⁹⁹ If the referendum is successful and the majority says 'yes', voters approve the treaty. If the turnout is below 50 percent and referendum is thus invalid, the parliament can proceed to vote on the treaty as if a referendum had not been held at all.

4. Elections to the European Parliament

Since the date of the signing of the Accession Treaty (16 April 2003) Slovakia has had 14 observers in the European Parliament. They have been co-opted by the Slovak parliament on the basis of proportional representation of all political parties. With Slovakia's accession to the EU these observers became fully-fledged members of the EP.

Slovakia will hold its elections to the European Parliament on Sunday, 13 June 2004. Voters are going to decide the composition of 14 MEPs from Slovakia. The rules guiding the electoral contest to the EP include proportional representation in a single electoral district for the whole country. Party lists are virtually closed: in addition to casting one's ballot for a particular political party each voter is allowed to mark the party list with just one preferential vote for a particular candidate.

Five of the current members of the EP are going to stand as leading candidates for their respective political parties.²⁰⁰ This covers three of the four parties in the governing coalition. Anna Zaborska will lead the Christian Democratic Movement (KDH), Edit Bauer is number one on the list of the Party of Hungarian Coalition (SMK) and Jozef Heriban is the leading name for the Alliance of a New Citizen (ANO). Top candidates for two largest opposition parties are also current EP observers. Monika Benova is the leading figure for SMER and Sergej Kozlik will lead Vladimir Meciar's Movement for Democratic Slovakia (HZDS).

Peter Stastny, a former ice hockey star, is the leader for Prime Minister Mikulas Dzurinda's Slovak Christian and Democratic Union (SDKU). SDKU is the only party whose leading candidate is not a politician. The Communist Party of Slovakia (KSS), another parliamentary subject, has put forward Karol Fajnor, the party's deputy chairman, as its front person for EP elections. Although frontrunners for EP elections do not include leading political figures, with the exception of Peter Stastny they have all been active in politics and most have some (albeit limited) hands-on experience with EU affairs.

Elections to the EP are likely to be marked by a certain degree voters' fatigue. This will be the fourth major public contest in less than two years following the latest parliamentary elections (September 2002), referendum on EU accession (May 2003), presidential elections (April 2004) and referendum on the current government's length of office (also April 2004). Many observers predict a relatively low turnout. Pre-election campaign can be expected to be short and focused mostly on various internal issues, such as the performance of government as well as successes and hardships of ongoing economic and social reforms. In addition, questions about the future of the EU, attitudes to the Draft

²⁰⁰ *SME*, 22 March 2004.

Constitutional Treaty and ideas for Slovakia's role in the enlarged Union may resonate in the electoral debate.

5. Awareness of the IGC

Parliament

Although parliament's views on the IGC cannot bind the government, following the conclusion of accession negotiations the context of EU institutional reform provided an opportunity to establish a foundation for communication between the executive and the legislative branches of power. The government approached the parliament and asked for its opinion prior to finalising Slovakia's position for the Intergovernmental Conference.

Members of the parliament discussed the Draft Constitutional Treaty and on 23 September 2003 Slovakia's MPs passed a resolution that endorsed the cabinet's intention to change the final document's name into the "EU Constitutional Treaty", to incorporate a reference to Christianity into the Constitution's Preamble and to preserve the existing principle of one country – one commissioner. The Slovak parliament also explicitly defined the following vital interests of Slovakia: it rejected the proposed mechanism for QMV and was in favour of keeping the relative weight of smaller member states; it called for preservation of unanimity in the fields of foreign policy, defence, taxation, criminal law, judicial and police co-operation, asylum and immigration procedures, culture and social security. The MPs also endorsed the principle of rotating presidency of the European Council.

Public and Media

While preparations of Slovakia's stance in the IGC were principally in the hands of diplomats and civil servants, two of the four coalition parties stated their strong views during final weeks of negotiations on Slovakia's position for the IGC. The Party of Hungarian Coalition (SMK) proposed as one of Slovakia's priorities the incorporation of the principle of protecting the rights of ethnic minorities. However, this demand was unacceptable to SMK's other coalition partners. The Christian Democratic Movement (KDH) as the most Euro-sceptic element of governing coalition expressed several reservations regarding Slovakia's official position. The most important of them was the refusal to accept the Charter of Fundamental Human Rights as an integral part of the Constitutional Treaty (see footnote 15 for more details). Also, once the IGC began, KDH politicians and specifically its deputy chairman and Minister of the Interior Vladimir Palko continued to voice resistance to the Charter of Fundamental Rights.²⁰¹ Main opposition parties (SMER and HZDS) did not offer a

²⁰¹ See for instance: Palko's article in Slovak daily *SME*, 11 December 2003.

comprehensive statement or stress specific points of concern with respect to the Draft Constitutional Treaty.

Other non-official and non-governmental actors, such as European Information Centre, Centre for European Politics or Slovak Foreign Policy Association organised and co-sponsored a number of public debates on IGC and the EU's institutional reform. Also, the National Convention on the European Future of Slovakia, a broad umbrella forum of various interests, political and non-governmental groups met in the fall of 2003 and issued a statement calling for the successful outcome of the IGC.

Public and private Media in Slovakia covered most thoroughly the opening of the IGC in October 2003 and the run-up to and the failure of the Brussels European Council in December 2003. They naturally focused on the most contentious issues such as the system of QMV, its extension to new policy fields, the future of security and defence policy and the composition of the European Commission and the enlarged Union. Besides these issue, the media paid attention to the matter of Christianity and the mention of God in the preamble of the Constitutional Treaty. Also, the launch of the server www.euractive.sk in 2003 provided a solid, comprehensive and up-to-date Internet source of information on the IGC in Slovak.

National Report Slovenia

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to be completed