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**Current Status of Debate  
in European States on the Constitutional Treaty**

LESZEK JESIEŃ (ED.),  
ŁUKASZ ADAMSKI, MATEUSZ GNIAZDOWSKI,  
EMIL PIETRAS, ADAM SZYMAŃSKI,  
RAFAŁ TARNOGÓRSKI, BEATA WOJNA

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## Introduction

This elaborate paper provokes a series of questions. Where are EU member states heading in their effort to reform the Community's institutions? Are there leaders of the pack among them, are there stragglers? Are the present considerations on the constitutional treaty linked to a vision of sorts? These are vital questions, to be answered probably during the forthcoming months and years, when watching the politicians' efforts to have their share in this realm of European integration.

Not pretending to have exhausted all possible analytical approaches and conclusions, the present listing of attitudes currently present in EU Member States supports the claim that today, all the states can be divided into three general groups.

The first group is composed of states that accept the constitutional treaty fully and entirely. The majority of them have already ratified it, while the rest will have not problems doing the same. This is the largest group, and one that has a clear leader, that is Germany, a state that has invested a lot of its political capital in the adoption of TCE. This group is also the most distinct and active in terms of voicing their attitudes, demanding that the treaty should be adopted by all the states as every one of them signed it. However, this group faces a major obstacle in that it does not have any clear and specific idea on how to reconcile its dominant position (both politically and demographically – states that have already ratified the treaty represent the majority of EU citizens) with a problem posed by the failed TCE ratification in France and Netherlands, where it has not passed the referendum test. As long as the principle of ratification equality is retained (ratification by all states is required for the treaty to be valid), this constitutional treaty problem cannot be resolved.

The first group also comprises a few states, notably the new EU states, that accept the contents and the form of the constitutional treaty as if by default. In the case of Bulgaria and Romania (acknowledging that the two states differ in opinions on a number of issues), this default mechanism ensured a simultaneous ratification of TCE and all accession treaties, which significantly reduced the likelihood of any dissenting opinions. In other states, preoccupied with development issues, problems with an unstable neighbourhood and needs for specific actions, such as in the area of energy policy, TCE is understood as a tool to facilitate EU actions and, as such, is accepted nearly unanimously. Interestingly, Baltic states have come up with nearly identical positions on this issue, forming a peculiar, common Baltic states-wide position, although it has not been presented as such yet.

The second group is primarily the Czech Republic, Poland and the United Kingdom. There are also a few other states that indicate, either more, or less explicitly, that some components of TCE could be changed to meet their requirements, but more often than not fail to voice their proposals, and hide behind the group of the main opponents

This group is formed by states that have major problems with adopting the constitutional treaty in the present form, and with the present contents of the institutional solutions. Arguments against the treaty are varied, and do not form a consistent vision, that could conceptually compete against TCE. Among them there are:

- No reference to Christianity in the preamble
- Inappropriate conditions for majority forming in the European Union Council (weighted votes of Member States and vote thresholds);
- Argument that TCE leads to the formation of a state, or a superstate;
- Argument that TCE leads to an excessively liberal economy (social and economic model);
- Argument that TCE leads to an excessively social welfare oriented economy (social and economic model);
- No consent as to appointing a permanent chairman of the European Council;
- Problems with accepting the position, duties and responsibilities, and even the name "EU Minister of Foreign Affairs";
- Lack of specific solutions (e.g. on energy policy), undefined attitude towards third party states (e.g. the region of Eastern Europe).

These problems with accepting TCE do not provide a basis for a realistic assumption that a group of states opposing the treaty is able to act together. We should rather expect that some proposals of individual states will be examined in isolation from others. They might find satisfactory solutions, or they might not—in any case, however, they will not form a coherent vision, alternative to that offered by TCE. As a

consequence, a possible scenario is that individual states will be faced with a situation: either to adopt a given solution, or to exercise an individual veto. Individual vetoing costs a lot in political terms, as the vetoing state becomes a single obstacle standing in everybody else's way. That is why, if used more than once, this veto may prove ineffective.

The third group is formed by two states—France and Netherlands, where referendums on the adoption of the Constitutional Treaty brought negative results. It is generally conjectured that the reasons for both failures were different, and of an internal nature. Nevertheless, the constitutional treaty did not prove to resonate enough in political terms to be accepted by the citizens of those states. On the one hand, their attitude towards the problem is clear: the same, or a very similar treaty cannot be subject to the ratification procedure again. On the other hand, however, both states fail to present solutions that would consider the fact that ratification has been completed successfully in a vast majority of states already. At the present stage, matters are even more complicated by the presidential and parliamentary election campaign in France.

This distribution of preferences and sentiments on the constitutional treaty, or to put it in a broader perspective, the institutional reform, means that at the present stage, it is hardly possible to specify the most likely scenario of developments, both for the German presidency, and beyond, in 2007 and later. In general, all the states assume that June 2009, when the European Parliament elections will take place, is a deadline by which some binding decisions should be taken. However, even with this date, there is no agreement as to what it means for institutional reform. The majority seem to opt for the scenario supported by Germany, under which some documents will have been ratified by that time. However, opinions are also voiced calling for slowing down the work under the banner "quality, not speed".

Consequently, three possible scenarios exist: (1) overall agreement, but probably on the text that will differ materially from the current text of TCE; (2) lasting suspension of work on the subject; and a peculiar stalemate consisting in the dragging of the negotiations on institutional change if the agreement is impossible to reach and no veto is put.

Nevertheless, the first, most optimistic scenario, appears most likely. The remaining two could materially enfeeble the EU in its ability to arrive at agreements on other politically important and vexed issues, such as the future of the Common Agricultural Policy, the financial perspective, or the accession of new states.

\* \* \*

This paper aims to present the current status of debate and considerations over the problem of institutional reform in the European Union, whose most important aspect is the future of the constitutional treaty (TCE). Its rejection in referendums in France and Netherlands in 2005 complicated the plans related to institutional change.

The paper presents positions of 26 EU Member States (except Poland). In addition, summaries of joint positions, typically presented at the EU level (e.g. Benelux), or associated with political formations present within the EU (e.g. the Visegrad Group, or Baltic States). An attempt was also made to show, wherever possible, positions of states that are non-members of the European Union, although the prevalent situation there is a lack of interest in the issue.

The paper concludes with a table summarising the constitutional treaty ratification process so far, together with comments that clarify the intricacies of the ratification procedure in individual states, notably where it is on hold, or unfinished (e.g. in Germany).

## Austria

The government, headed by Chancellor Alfred Gusenbauer and president Heinz Fischer, advocate a position that the constitutional treaty in the present shape is the best attempt thus far to remove the shortcomings that exist in the Community. It streamlines the Community structures and enables the formation of a strong, effective and democratic Union, with an important role in the international arena.<sup>1</sup> As a

<sup>1</sup> See Letter by the Republic of Austria Ambassador to Poland Alfred Längle, No. 8.490.04/2/2007, 14.02.2007, author's own records; *Will von Schweiz lernen*, Bundeskanzler Gusenbauer im Interview mit der Schweizer Tageszeitung „Der Bund“, 12.02.2007, [www.bundeskanzleramt.at/site/cob\\_20194/currentpage\\_0/5374/default.aspx](http://www.bundeskanzleramt.at/site/cob_20194/currentpage_0/5374/default.aspx).

result, Austria supports the effort of the German presidency, and in the event that those changes to the treaty are successfully negotiated, the present text should be used as a basis. Austrian authorities would be happy to see the ratification process continue, and finish by 2009 at the latest. Austria points out that TCE has already been signed by all EU states, which, according to the Vienna Convention on the Law of Treaties, is equivalent to their obligation to initiate the ratification procedure. Austrian authorities admit, however, that we should consider citizens' concerns reflected by the referendums in France and Netherlands. Therefore, the government could agree to minor changes to TCE, amendments or protocols, if all EU members, notably those that have ratified TCE, agree. The basic contents of the treaty should be retained – since 2/3 of the Community members have already ratified it.<sup>2</sup> The president goes even further, as he admits partial solutions, without being specific on this concept.<sup>3</sup> Negotiating a new document from the beginning is ruled out, as it would delay EU consolidation and could threaten the entire integration project.

In Austria, TCE is present in the public debate, also owing to the media coverage. The coalition parties are in favour, while the Social Democratic Party of Austria (SPÖ) is more willing to introduce amendments (scenario TCE plus), and the Austrian People's Party (ÖVP), the group that gives its vehement support for the "Europe of projects" as the solution for now.<sup>4</sup> The Greens advocate negotiations on the basis of the present TCE with a new Convention (broadly joined by the civil society) to decompose the text into constitutional matters and community policies. The group states that the text should be ratified in 2009 in the pan-European referendum. The Freedom Party of Austria (FPÖ) does not want TCE as it is, and demands a new text, to be ratified in Austria by referendum. Business organisations support the government position, while trade unions demand renegotiation of the treaty, or preserving the Treaty of Nice. As argued by the unions, the building of the social union should appear higher on the agenda.<sup>5</sup>

Austria recognises the need for the institutional reform to take place by 2009. Its primary objective is for the EU Charter of Fundamental Rights to be legally binding. Removing the Charter from the treaty would result in weakening the EU's position as a structure that supports respecting human rights all over the world. The state does not consider the preamble as a crucial issue, but rather one that can be discussed when the right time comes. All institutional solutions of TCE (on Community bodies, EU Minister of Foreign Affairs, permanent chairman of the European Council, etc.) are supported by Austria, which does not see any need to change them, since better results are less likely to be achieved. Austria is also a proponent of greater empowerment of national parliaments, as provided in TCE, as this will enhance the principle of subsidiarity. Further, Austria supports all provisions in the Treaty that reduce the democratic deficit in the EU (citizens' legislative initiative), as well as the division of competencies adopted in TCE as more transparent than the present arrangements. It also strongly prefers the decision making system in the EU Council as proposed by the constitutional treaty to the Nice system, as the former ensures balance between the equality of states and equality of citizens.<sup>6</sup>

The Eurobarometer 66 survey of December 2006 shows that 51% of Austrians support the constitutional treaty, while 39% of respondents are of the opposite opinion (in July 2006, these figures were at 44% and 34% respectively). Among reasons for support for the treaty, those in majority are that the document makes EU more competitive and stronger (61%) and democratic (56%). Less frequently quoted are arguments of effectiveness and transparency guaranteed by TCE (52% and 51% respectively). However, 39% of Austrians believe that the treaty should be renegotiated, 23% argue that it should be considered as "dead", while 17% support continued ratification process (21% don't have an opinion).<sup>7</sup>

<sup>2</sup> See *EU-25/27 Watch*, No. 4, Institut für Europäische Politik, Bonn, January 2007, [www.iep-berlin.de/publik/EU25-Watch/EU-25\\_Watch.pdf](http://www.iep-berlin.de/publik/EU25-Watch/EU-25_Watch.pdf), p. 72; Answers to PISM questionnaire, author's own records (05.03.2007).

<sup>3</sup> See *Bei der EU-Verfassung sollte man nicht 'alles oder nichts' sagen*, "Oberösterreichische Nachrichten" of 10 January 2006, [www.hofburg.at/rte/upload/pdf\\_interview/060110-ooen.pdf](http://www.hofburg.at/rte/upload/pdf_interview/060110-ooen.pdf).

<sup>4</sup> See A. Maurer, D. Schwarzer, *Alle Karten auf den Tisch!*, SWP-Aktuell 28, Juni 2006, p. 9; *Kursbuch Zukunft. Modern, Sicher, Menschlich*, [www.oevp.at/download/Kursbuch\\_lang\\_web.pdf](http://www.oevp.at/download/Kursbuch_lang_web.pdf), p. 101.

<sup>5</sup> See *Zeit für Grün. Das Grüne Programm*, [www.gruene.at/uploads/media/GruenesWahlprogramm2006\\_04.pdf](http://www.gruene.at/uploads/media/GruenesWahlprogramm2006_04.pdf), p. 23; *Strache gegen Wiederbelebung der EU-Verfassung*, 07.03.2007, [www.bmaa.gv.at/view.php3?f\\_id=12342&LNG=de&version=](http://www.bmaa.gv.at/view.php3?f_id=12342&LNG=de&version=); *EU-25/27 Watch*, No. 4, p. 72.

<sup>6</sup> See Answers to PISM Questionnaire, op. cit., Elisabeth Tichy-Fisslberger, op.cit.; A. Szymański, *Austria*, [in:] K.A. Wojtaszczyk, M. Poboży, A. Wierchowka (eds.), *Ratyfikacja traktatów wspólnotowych w państwach członkowskich Unii Europejskiej*, Art & Archeology, Warszawa-Ciechanów 2006, p. 28–29.

<sup>7</sup> Data from: *Eurobarometer 66, Die öffentliche Meinung in der Europäischen Union. Nationaler Bericht, Österreich*, Herbst 2006, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_at\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_at_nat.pdf), p. 43–49; *IEP-Ratifizierungssurvey*, Institut für Europäische Politik, 10 August 2006, [www.iep-berlin.de/fileadmin/website/09\\_Publikationen/Sonstige/Laenderueberblick.pdf](http://www.iep-berlin.de/fileadmin/website/09_Publikationen/Sonstige/Laenderueberblick.pdf), p. 22.

## Belgium

Belgium is an avid proponent of continued ratification and adoption of the treaty with fewest possible changes. This is evidenced by statements from Belgian government representatives and parliamentarians. The dominant theme of the debate on the treaty is the question of restoring citizens' confidence in the European project.

The Belgian Prime Minister Guy Verhofstadt made references to TCE and EU institutional reform on numerous occasions. He supports the concept of deeper integration. The adoption of TCE was to be the necessary stage to that end. He believed that the ratification process should continue.

At present, the Prime Minister is a proponent of the TCE "road map" adoption by the end of June 2007, and preparing a draft of the new project. This will allow the intergovernmental conference to take the decision on the necessary changes to come into effect in 2009, before the elections to the European Parliament.<sup>8</sup> If any state blocks the agreement, changes should be introduced without that state's involvement. Then, the application of the solution provided in Declaration No. 30, attached to the treaty, could be considered, which describes what happens if in two years after the treaty is signed, 80% of EU Member States ratify it, and one or several states are unable to do that. According to the said declaration, the power to take a decision in this case rests with the European Council.

Minister of Foreign Affairs Karel De Gucht also supports TCE, in particular in terms of extension of the community method to cover the Common Foreign and Security Policy (CFSP), and the concept of establishment of the EU Minister of Foreign Affairs with broad competencies in the area of CFSP and the Community's external services.<sup>9</sup> On the other hand, he opposes a solution where only some passages from the present text of the treaty are selected, and where reference to religious values is present. He believes that if the treaty ratification fails, 2008 should mark the beginning of the intergovernmental conference, with a view to modifying the present EU treaty base. The changes would be presented to the societies for approval in 2009 – the year of the European Parliament elections.<sup>10</sup>

The ratification process of the Treaty Establishing a Constitution for Europe (TCE) in the Kingdom of Belgium ended on 13 June 2006, when the document was signed by the king and the representatives of the government.

## Bulgaria

Bulgaria will probably join the group of states-proponents of the constitutional treaty's adoption in a largely unchanged form, and thus retention of its vital concepts, as the treaty represents a part of the Agreement on Bulgaria's accession to the EU, which eliminates the need for its independent ratification, while allowing to identify Bulgarian support for the membership with the support for the constitution itself.

Authorities of this state of six million residents are currently avoiding any statements on their position towards the constitutional crisis, and the content of the treaty is not subject to public debate. The document is rarely referred to, mainly during public statements of the Bulgarian authorities intended for Western Europe receivers. In his January address before the European Parliament, Bulgaria's President Georgi Parvanov declared that his state supported *the initiative of the German Presidency, and personally of Chancellor Angela Merkel, for consultations on devising a new and original road map to take forward the constitutional project*.<sup>11</sup> In turn, Prime Minister Sergei Stanishev, during his recent visit to Rome, declared that the viewpoints of Italy and Bulgaria on the constitution show many similarities.<sup>12</sup>

<sup>8</sup> Guy Verhofstadt in the European Parliament, Brussels, 31 May 2006, /www.premier.be/fr/premier/speeches/2006/18111.html.

<sup>9</sup> K. De Gucht, *Shifting EU foreign policy into higher gear*, College of Europe, Bruges, www.diplomatie.be/EN/press/speechdetails.asp?TEXTID=59483 (15.11.2006).

<sup>10</sup> K. De Gucht, *Enlargement: Past and Future*, University of Warsaw, Warszawa, www.diplomatie.be/EN/press/speechdetails.asp?TEXTID=53929 (23.05.2006).

<sup>11</sup> *Address by President Georgi Parvanov to the Members of the European Parliament*, www.president.bg/en/news.php?type=3 (12.03.2007).

<sup>12</sup> Radio Bulgaria, recording of 18 Jan, 2007, www.bnr.bg/RadioBulgaria/Emission\_English/Theme\_BulgariaES/Material/bulgaria\_italy.htm (12.03.2007).

These statements testify both to the conviction of the Bulgarian authorities that the constitutional treaty is in line with the interest of the state, as well as to their intent to demonstrate Bulgaria's "pro-European-ness" and "constructive attitude", notably that many Western Europe states unofficially consider Bulgaria's accession to the EU as "premature". The experts, such as the recognised political scientist Ivan Krastev, point out that the dispute over the treaty reduces the effectiveness of EU actions and may encourage the largest EU states to defend their national interest only, which will place the new member states on the receiving end.<sup>13</sup>

The government declaration on the future of the EU,<sup>14</sup> adopted as early as in 2002, indicates that the text of the constitutional treaty is largely convergent with Bulgaria's expectations (including the word "constitution"). It is worth noting that Bulgaria supported the European Council's power to dissolve the European Parliament on the Commission's request, which was to counterbalance the extension of its competencies. However, unofficial quotes indicate that Bulgaria might also be also willing to accept a "mini-treaty", or extension of the Nice treaty to cover certain elements of the constitutional treaty (such as the office of the EU Minister of Foreign Affairs). By and large, we can expect that Bulgaria will seek solutions that will render its position compliant with the positions of the majority of EU states.

## Cyprus

The constitutional treaty issue is not a priority on the European agenda of the Republic of Cyprus, unlike e.g. the problem of the divided island of Cyprus, or Turkey-EU relations. TCE is referred to occasionally, when European matters are discussed and initiatives related to the reflection period taken.<sup>15</sup> The position of the authorities is not uniform. During his meeting in Madrid on 26 January 2007, the representative of the Cypriot MFA, ambassador Alexandros Zenon, argued that the ratification of the constitutional treaty would be the optimum solution. Cypriot diplomats clearly supported the actions by the German presidency intended to draft a road map on TCE, that could be submitted to the European Council in June 2007. It is also argued that TCE ratified by a large number of states may be the basis for new initiatives, which, for Cyprus, also covers the mini-treaty, or the Italian concept of a committee to evaluate opportunities for further actions on the constitutional treaty.<sup>16</sup>

Although public debate on the future of TCE is hardly present, distinct positions of major parties may be observed. The second-largest coalition party, the conservative Democratic Party (DIKO) supports the plan of the German presidency, treating TCE as a document that represents progress on the road to political integration, ensuring for the EU greater effectiveness and more democracy. The Progressive Party of Working People (AKEL), the largest party of the ruling coalition, states the need to renegotiate the constitutional treaty, that is to draft a different document as a result of the rejection of the TCE in the French and Dutch referendums. Politicians of the party think it necessary to consider the objections from the societies of those states. AKEL's spokesperson Andros Kyprianou stated in an interview held in November 2006, that the support for the constitutional treaty by his party requires changes to strengthen the social dimension of the Union (meeting needs of the society half-way) and to reduce discrepancies in the economic development among EU states. In turn, the main opposition party, Democratic Movement (DISY), rules out the "Nice plus" scenario as incompliant with the needs of the Union with 27 members. The constitutional treaty, incorporating the viewpoint of the society, is considered as the basis for negotiations.<sup>17</sup>

The TCE institutional solutions supported by Cyprus are primarily the EU Charter of Fundamental Rights, which should be legally valid, as well as the solidarity clause to apply in the event of an attack on one of the member states (connection with the problem of divided Cyprus). In addition, the Republic of Cyprus

<sup>13</sup> See I. Krastev, *Sagen, was ist*, "Financial Times Deutschland" of 25 March 2007.

<sup>14</sup> See *Initial Position of the Republic of Bulgaria on the Debate on the Future of the European Union* [www.mfa.government.bg/index.php?tid=14&item\\_id=11025](http://www.mfa.government.bg/index.php?tid=14&item_id=11025) (12.03.2007).

<sup>15</sup> See *EU-25/27 Watch*, No. 4, p. 75.

<sup>16</sup> *Ibidem*, p. 76; see also: *Cyprus considers that ratification of the Constitutional Treaty is the best way forward*, Ministry of Foreign Affairs of the Republic of Cyprus, [www.mfa.gov.cy](http://www.mfa.gov.cy) (29.01.2007).

<sup>17</sup> See *EU-25/27 Watch*, No. 4, p. 76; L. Naumann, *Cyprus*, [in:] N. Eschke, T. Malick (eds.), *The European Constitution and its Ratification Crisis. Constitutional Debates in the EU Member States*, Discussion Paper C 156, ZEI, Bonn 2006, p. 123–124; S. Wagener, *Der Vertrag über eine EU-Verfassung und die Positionen Linke Parteien*, Universität Potsdam, Potsdam 2006, [www.rosalux.de/cms/fileadmin/rls\\_uploads/pdfs/wagener\\_mag.pdf](http://www.rosalux.de/cms/fileadmin/rls_uploads/pdfs/wagener_mag.pdf), p. 66–69.

argues that changes offered by TCE that strengthen CFSP are required, including the establishment of the EU Minister of Foreign Affairs with appropriate competencies.<sup>18</sup>

Eurobarometer 66 survey of December 2006 indicates that 43% of the Republic of Cyprus' citizens support the constitutional treaty as a facilitator of EU actions; 12% are of the opposite opinion. Interestingly, a high share of people without an opinion on the treaty continues to be present—in December 2006, it was at 36%. This results from the lack of a broader debate on TCE. Cypriot public opinion agrees with the politicians in power on the development of CFSP, with the support in December 2006 at 78%, while as many as 89% supported the common defence policy.<sup>19</sup>

## Czech Republic

The Czech Republic has failed to ratify TCE. In October 2004, the centre-left government of Prime Minister Stanislav Gross accepted TCE; however, President Václav Klaus ostentatiously refused to take part in the signing ceremony in Rome. Following a vote in the European Parliament, as many as 17 out of 24 Czech Euro-deputies voted against the adoption of the treaty.<sup>20</sup> The right-wing Civic Democratic Party (ODS), which won the parliamentary elections in June 2006 (President Klaus remains its honorary chairman), took the same position. ODS' leader, Mirek Topolánek, became head of the minority government, and since January has led the coalition government (with a majority by a narrow margin of votes), formed by ODS, Christian Democrats (KDU-ČSL) and the Green Party.

The Czech Republic questions the legitimacy of continued TCE ratification. The state was also the last one to agree to the present text representing a point of departure for the new treaty.<sup>21</sup> This position was shared by the president, Prime Minister, Deputy Prime Minister for the EU, but the missing piece was a common position by the government, as there were conflicting views on the EU institutional reform within the ruling coalition. Only on 22 February 2007, ODS agreed for the present TCE text to be the point of departure for the new document. Based on the coalition arrangements, CR supports the drafting of a shorter, clearer and simpler text to be the EU basic treaty that should "unite rather than divide" Europe. It was also stated that the EU is not in crisis, and all attempted reforms should follow the "quality rather than speed" principle.<sup>22</sup> The new treaty may not "weaken" CR's position, use "quasi-constitutional" symbols (that is terms such as "constitution", "EU Minister of Foreign Affairs") and should allow further EU enlargement on clearly defined terms and conditions.<sup>23</sup>

President Klaus and his collaborators (including Jan Zahradil, the PM's representative for the treaty document) represent the most critical views on TCE and the course of European integration it offers. Prime Minister Topolánek, ODS ministers, in particular ODS-appointed Deputy Prime Minister for European Affairs Alexander Vondra give less emphasis to ideological grounds for their attitudes, which makes their position more conciliatory. The third line of thinking on the EU reform in the government is represented by the coalition forces which do not share the party's criticism towards TCE. They are proponents of the original assumptions of the Czech EU policy for 2004–2013, where it was stated that the Czech Republic would "remain as close as possible to the core of integration". KDU-ČSL supports retaining the core of TCE provisions, notably those on institutional change, and does not consider the ratification process in the EU as closed. The Greens consider the present TCE text as a good basis for the new document, although it should be made simpler. The opposition Czech Social Democratic Party (ČSSD) advocates the adoption of TCE in the present shape by all EU states by spring 2009. They criticise e.g. cooperation between Poland and the Czech Republic, arguing it leads to their state's marginalisation in the EU. The second opposition formation in the parliament, the Communist Party of Bohemia and Moravia (KSČM) supports "skimming" and simplification of TCE.

<sup>18</sup> See S. Kurpas, M. Incerti, J. Schönlaue, J. De Clerck-Sachsse, *Update on the Ratification Debates: What Prospects for the European Constitutional Treaty? Results of an EPIN Survey of National Experts*, Working Paper No. 13, May 2005, [http://shop.ceps.be/BookDetail.php?item\\_id=1223](http://shop.ceps.be/BookDetail.php?item_id=1223), p. 16–17.

<sup>19</sup> Data from: *Standard Eurobarometer 66, First Results*, December 2006, Tables, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_highlights\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_highlights_en.pdf).

<sup>20</sup> See "Biuletyn" (PISM), No. 10 (255) of 8 February 2005.

<sup>21</sup> See "Biuletyn" (PISM), No. 9 (423) of 19 February 2007.

<sup>22</sup> *Pětibodové prohlášení představitelů koalice k evropské ústavě*, ČTK, [www.ceskenoviny.cz/domov/vlada/index\\_view.php?id=238068](http://www.ceskenoviny.cz/domov/vlada/index_view.php?id=238068) (22.02.2007).

<sup>23</sup> *Koaliční strany se shodly na postoji k euroústavě*. ČTK, (3.04.2007).



Between spring and autumn 2006, there was a rise in the number of TCE supporters in the Czech Republic (by 8%). In autumn, 50% supported TCE adoption, and 30% opposed it. The number of citizens who believe that TCE is necessary for the European institutions to function properly also grew, by 7 per cent (to 55%).<sup>24</sup>

By selecting the negotiation tactics of a “forceful entry” and presenting maximum expectations by their right-wing politicians (during the visit to Prague of Chancellor Angela Merkel), the Czech Republic is ready for constructive negotiations with its EU partners and a compromise. Prime Minister Premier Topolánek announced that CR would not obstruct negotiations on the new treaty.<sup>25</sup> The Czech Republic opposed June 2009 as the target date for ratification of the document to be specified in the Berlin Declaration.<sup>26</sup> It further stated that the expression of “putting the EU on a renewed common foundation” by June 2009 should not be interpreted as the final date for the adoption of the constitutional reform, as the state does not want it to “cast a shadow” over the Czech Presidency in the EU, falling on the first half of 2009.<sup>27</sup> Considering the above, the coalition agreed that it is in the Czech interest for the negotiations to finish successfully before 2008.<sup>28</sup> As argued by ODS politicians, if this is to weaken CR status in the EU, haste is not recommended. They also argue that the debate on the EU institutional order should be linked with a discussion on specific EU policies. The priority of the Czech Presidency in the EU is planned to be the effort for full liberalisation of the internal market and realisation of four basic freedoms.<sup>29</sup>

The Czech government, opposing protectionism and unification trends in the economy, is reluctant towards expressions related to the “social dimension” of the EU, both in the Berlin Declaration, and the future treaty document. The discussion on the subject should be linked with topics related to the comprehensive EU spending reform. What also matters is the reform of spending on the so-called old EU policies, in particular the Common Agricultural Policy (CAP). The Czech decision makers underscore the importance of the New Financial Perspective review, to begin in 2008. CAP reform, that is the reduction of funding for this policy in the EU budget, is an objective on which all coalition parties agree, similarly to the opposition ČSSD. This subject is related with other areas of EU activities (also in external relations), where the Czech Republic wishes to be a promoter of liberalisation, e.g. in WTO negotiations on trading in agricultural produce.<sup>30</sup>

As argued by the Czech government, a topic that should play a key role in the discussion on the future EU is energy security. Further, it is seen as important from the viewpoint of improved stability of the internal EU market and neighbouring markets, also due to the strategic role that energy is to play in achieving political objectives. As a result of the presence in the coalition of the Green Party, the Czech government does not support provisions that would emphasise the role of nuclear energy for the European long-term energy security.

The Czech Republic is unwilling to give the name “constitution” to the new treaty document. However, if the nature of the document is such, Deputy Prime Minister Vondra does not rule out the option that the fate of the treaty in the Czech Republic will be decided by a general referendum.<sup>31</sup>

## Denmark

Owing to specific constitutional provisions, as many as seven referendums were held in Denmark regarding European affairs (starting from 1972, on the accession to the Communities, to 2000 and the rejection of Euro). In accordance with the decision taken by the Danish government, the ratification of the constitutional treaty was to proceed in the same manner. Following the February 2005 elections that kept

<sup>24</sup> *Eurobarometr 66. Veřejné mínění v zemích Evropské unie. Podzim 2006.* [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_cz\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_cz_nat.pdf).

<sup>25</sup> *ČR se proti evropské ústavě nepostaví, říká Topolánek*, [www.euractiv.cz/cr-v-unii/clanek/cr-se-proti-evropske-ustave-nepostavi-rika-topolaneke](http://www.euractiv.cz/cr-v-unii/clanek/cr-se-proti-evropske-ustave-nepostavi-rika-topolaneke) (6.03.2007).

<sup>26</sup> *Zahradil: ČR nechce, aby ústava zastíňovala její předsednictví EU*, ČTK, [www.ceskenoviny.cz](http://www.ceskenoviny.cz) (16.03.2007).

<sup>27</sup> *Evropská unie má do roku 2009 provést reformu institucí*, <http://www.euractiv.cz> (26.03.2007).

<sup>28</sup> *Koaliční strany se shodly na postoji k euroústavě*. ČTK (3.04.2007).

<sup>29</sup> *Projev premiéra Mirka Topolánka na výroční poradě vedoucích zastupitelských úřadů ČR v Černínském paláci*, [www.vlada.cz/scripts/detail.php?id=18863](http://www.vlada.cz/scripts/detail.php?id=18863) (7.09.2006).

<sup>30</sup> See e.g. *Projev předsedy vlády ČR Mirka Topolánka na Inaugurační konferenci Platformy pro evropskou reformu – MER- v Bruselu*, [www.vlada.cz/scripts/detail.php?id=21430](http://www.vlada.cz/scripts/detail.php?id=21430) (6.03.2007).

<sup>31</sup> *Vondra: O Euroústavě by Češi mohli rozhodovat v referendu*. ČTK (8.03.2007).

the liberal-conservative coalition in power, a new deadline was scheduled for September 2005. At the same time, the government entered into an agreement with the coalition on the support for TCE, attached with the Law on Referendum.<sup>32</sup> Initially, the voting was to proceed independently of the failure of the French process; However, fearing a continued “losing streak”, its postponement until further notice was decided on. Prime Minister Anders Fogh Rasmussen supported the concept of the reflection period. The Danish peculiarity was in that the decision on the potential surrender of the Treaty of Maastricht opt-outs would have to be taken by the citizens separately, as these were incorporated as declaration into the TCE text. Quotes from the Prime Minister indicate a sense of disappointment with the failure of the treaty.

Public opinion surveys have shown significant fluctuations. During the referendum period, the percentage of TCE opponents in the society was growing, most intensely after the failure in Netherlands and France. Currently, the advantage of proponents over opponents, in terms of their numbers, continues to exist.<sup>33</sup>

Despite the freeze of the ratification process, it appears that the Danish Establishment supports the “pro-constitution” option among member states. In official statements, understanding of the unwillingness to change the text by the states that have already ratified TCE is offered, along with the underscoring significant difficulties in resuming negotiations. A recurring theme in many statements is the declaration on vitality of the solutions already agreed on in TCE. The support for the German presidency proposals and effort is expressed. Strongly accentuated is also the support for the treaty as an appropriate answer to the challenges that the Union faces, and the intent to leave intact as much of the TCE text as possible.<sup>34</sup>

Among the supported solutions there are: efficient and transparent decision-making in the EU Council, establishment of the position of the permanent chairman of the European Council and EU Minister of Foreign Affairs,<sup>35</sup> or incorporation of the Charter of Fundamental Rights. However, the need to work out a new solution is also recognised, owing to difficulties with voting on the unchanged text in France and Netherlands, and the member states governments’ responsibility for their future fate emphasised.<sup>36</sup> Following Rasmussen’s meeting with Prime Minister Jarosław Kaczyński on 16 March this year, both politicians announced that the treaty should come into effect before June 2009.<sup>37</sup> Their joint position, announced at the meeting, might indicate that there are matters that may be again subject to discussion. What appears likely is the support for the Polish concept of incorporating solidarity in energy policy matters, whereas the effort to change the system of determining qualified majority in the Council is less likely to be supported by Denmark.

## Estonia

The position of Estonia is reflected by the document “Aims of the Estonian government during the German presidency”, adopted in January 2007. It states that: *We expect the presidency to come out with a proposal that is not going to bring substantial changes to the agreements achieved earlier. We also hope that the Treaty will be implemented before the European Parliament elections in 2009 with minimal changes.*<sup>38</sup> The authorities in Tallinn also assured that Estonia would *contribute to the discussions over the constitutional treaty in order to find a proper solution.*<sup>39</sup>

The above document concludes with a statement that the treaty is important both for the effectiveness of EU actions and for further enlargement. This expression properly reflects the pragmatic attitude of

<sup>32</sup> *Political Agreement between the Government (the Liberal Party, the Conservative Party), the Social Democrats, the Socialist People’s Party and the Social Liberal Party regarding Denmark in the Enlarged EU*, <http://euo.dk/upload/application/pdf/408864ff/PoliticalAgreementregardingDenmarkintheEnlargedEU.pdf>.

<sup>33</sup> [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_dk\\_exec.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_dk_exec.pdf).

<sup>34</sup> Address by Prime Minister of Denmark Anders Fogh Rasmussen at the Annual Ambassadors Conference, Bucharest, Romania, August 30, 2006, <http://www.stm.dk>.

<sup>35</sup> *Achieving Europe*. Speech by Prime Minister Anders Fogh Rasmussen at Copenhagen University on Friday 21 April 2006, <http://www.stm.dk>.

<sup>36</sup> Prime Minister Anders Fogh Rasmussen’s Opening Address to the Folketing (The Danish Parliament) on Tuesday 3 October 2006; Address by Prime Minister Anders Fogh Rasmussen at the Meeting with the Diplomatic Corps in Copenhagen on 12 January 2007, <http://www.stm.dk>.

<sup>37</sup> *Prime Minister Jarosław Kaczyński’s visit to Denmark*, <http://euro.pap.com.pl> (16.03.2007).

<sup>38</sup> See *Aims of the Estonian Government during the German Presidency*, Internet site of the Estonian Ministry of Foreign Affairs, [http://www.vm.ee/eng/euro/kat\\_486/8178.html](http://www.vm.ee/eng/euro/kat_486/8178.html) (10.03.2007).

<sup>39</sup> *Ibidem*.

Estonians towards the document. Following 1991, Estonia has recorded a rapid development growth and rising living standards which, without being anchored in EU and NATO structures, would not have been possible to that extent. Among political elites and the society there is a conviction that the strengthening of the EU matches Estonian national interests.

The treaty failed to be disputed by any major political power—only one dissenting voice was recorded during the ratification in the parliament on 9 May 2007. Previously, it was agreed that the parliamentary procedure would be sufficient, as the contents of the treaty had already been known to the society in September 2003, during the referendum on Estonia's accession to the EU (67% voted in favour, and 33% against). Interestingly, the date of the parliamentary vote is nearly one year after the failed referendums in France. The treaty ratification under such circumstances was intended to send a clear message that would encourage undecided EU states to finish the ratification procedure. It also underscored that the contents of the treaty entirely matched the Estonian national interests.

## Finland

Opinions in favour of the referendum on the constitutional treaty ratification were not too widespread. A social and political consensus as to the parliamentary procedure being the applicable one was reached in Finland. The announcement of the reflection period resulted in the postponement of the vote on TCE by the Finnish government, however the concept of its ratification has not been discarded altogether. A driving force for the decision on this issue seemed to be the assumption by Finland of the EU presidency in the second half of 2006, therefore it could have been expected that the successful ratification would have constituted a positive stimulus and counterbalanced the results of the French and Dutch referendums. The decisions were preceded by a report submitted in November 2005 by the Finnish government to the parliament.<sup>40</sup> The report clearly stated that the government still regarded TCE as a required tool to improve the prevalent EU treaty principles and that it supported continued ratification process by EU member states, declaring its openness to reasonable compromise on the issue.

In effect, on 5 December 2006, with 125 votes in favour and 39 against, the Finnish parliament decided to submit the ratification law to President Tarji Halonen for signature, which she did on 8 December. This provided a basis for the EP Chairman Joseph Borrell to underscore that, on ratification by Finland, including Romania and Bulgaria, TCE was ratified by 2/3 of EU states (18 out of 27), representing 56% of the Union's population.<sup>41</sup>

Joining the group of states that ratified TCE, Finland clearly opted for a “pro-constitution” stance, therefore it seems reasonable that it will consistently attempt to preserve in an unchanged form as many provisions of TCE as possible. We could expect that, owing to the successfully completed formal ratification process, Finland will opt for a solution that does not require repeated ratification. Nothing indicates that in the course of reaching the compromise, this state will attempt to remove any provisions from the TCE text. It should rather be expected that Finland will be more likely to join the proposal that will win the majority of EU members, with a preference to defending the present institutional package offered by TCE.

The electoral victory of the ruling Centre Party (KESK) of Prime Minister Matti Vanhanen indicates a continuation of the European policy in its present shape, but also a consensus achieved on the subject within the Finnish society, over a half of which supports TCE.<sup>42</sup>

## France

The French rejected TCE in a referendum conducted on 29 May 2005. 54.7% voted against and 45.3% in favour. From that moment, the subject of EU institutional reform has been for months virtually absent from official declarations and public debate. It was tackled again only before the parliamentary elections, planned for 22 April and 6 May this year.

<sup>40</sup> Government report to the Parliament on the Treaty establishing a Constitution for the European Union, *Unofficial translation*, [www.valtioneuvoisto.fi/tiedostot/julkinen/vn/selonteot-mietinnot/Valtioneuvoiston\\_selonteko\\_Euroopan\\_unionin\\_perustuslakisopimuksesta/145494.pdf](http://www.valtioneuvoisto.fi/tiedostot/julkinen/vn/selonteot-mietinnot/Valtioneuvoiston_selonteko_Euroopan_unionin_perustuslakisopimuksesta/145494.pdf).

<sup>41</sup> *European Parliament President Josep Borrell welcomes Finland's ratification of the Constitutional Treaty*, [www.europarl.europa.eu](http://www.europarl.europa.eu) (5.12.2006).

<sup>42</sup> [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_fi\\_exec.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_fi_exec.pdf).

The institutional reform of the EU was not a major topic of the electoral campaign. Rarely do candidates take a stance on the issue, avoiding the subject that divided the nation during the referendum. Although the survey of late 2006<sup>43</sup> indicates that 66% of the French support the concept of the European constitution, 21% oppose it and 16% don't have an opinion, we should remember that this distribution of attitudes has continued approximately since November 2002, oscillating between 60% and 70% of respondents in favour. This did not stop the French from voting against the constitutional treaty. Surveys clearly indicate that 66% of the French support renegotiating the document, while a mere 16% argue that it should be abandoned, 9% are in favour of the ratification process, and 9% don't have an opinion.

France's position on the constitutional treaty and the further course of institutional reform in the EU largely depends on who takes the presidential office.<sup>44</sup> Among the candidates to the office there are four, who enjoy most of the social support. These are Nicolas Sarkozy, Ségolène Royal, François Bayrou and Jean-Marie Le Pen. Their positions on the constitutional treaty and their proposals for the institutional reform are relatively clearly stated, although not always consistent and realistic.

**Nicolas Sarkozy:** The centre-right Union for a Popular Movement representative offers the most comprehensive vision of the future of the Constitutional Treaty and EU reforms, being a clear leader of the presidency race with 30% support.<sup>45</sup> He claims that the adoption of the constitutional treaty in its present form is impossible, although the institutional reform is indispensable for the EU to regain effectiveness and decision-making ability. In September 2006, Sarkozy proposed the implementation of the most urgent institutional reforms, adopting those provisions of the Treaty that complement or modify the Treaty of Nice. He referred to them as a mini-treaty.<sup>46</sup> At present, he is more supportive of the adoption of the simplified treaty (slightly more than the mini treaty), agreed on during speedy negotiations.<sup>47</sup> The document would not require ratification by referendum, which would materially raise its chances for adoption by all states. The work on that document should start as quickly as possible, so that the European Parliament elections in 2009 are based on the new provisions.

The new document should undeniably contain provisions on: 1) the establishment of a stable presidency of the European Council, 2) establishment of the office of the European Minister of Foreign Affairs, responsible for coordinating diplomatic, financial and, if necessary, military measures, as well as subordinated politically to the governments of Member States, 3) extended application of the qualified majority, notably in the judiciary, criminal and immigration matters, 4) extended application of the co-decision procedure, 5) introduction of the double majority principle (55% of member states representing 65% of the EU population), 6) introduction of the "footbridge" clause, 7) introduction of early an warning mechanism, to ensure compliance with the subsidiarity principle, 8) citizens' initiative, 9) enhanced cooperation, allowing states that are interested in deeper cooperation in certain areas not to be blocked by those EU members that are not interested, or ready to participate.

**Ségolène Royal:** Second place in the rankings, with 27% support, is occupied by Ségolène Royal of the Socialist Party. Her proposals are very general. In her electoral platform, the candidate of the left argues that a new constitutional treaty must be negotiated, as the present project failed to receive support in France (it was rejected also by some French socialists, on the grounds of its excessive liberalism).<sup>48</sup> The candidate of the socialists is of the opinion that the work on the new text could continue, based on the agreement

<sup>43</sup> Eurobarometre 66, *L'opinion Publique d'ans L'Union Europeenne*, Automne 2006, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_fr\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_fr_nat.pdf).

<sup>44</sup> 10 and 17 June are the dates of the 1<sup>st</sup> and 2<sup>nd</sup> round of the parliamentary elections in France.

<sup>45</sup> Sarkozy's and other candidates' poll figures come from a survey of 9 March 2007.

<sup>46</sup> Statement by Nicolas Sarkozy at Amis de l'Europe and Robert Schuman Foundation, on 8 September 2006, Brussels, Solvay Library, [www.u-m-p.org/site/index.php/ump/s\\_informer/discours/fondation\\_friends\\_of\\_europe\\_amis\\_de\\_l\\_europe\\_et\\_la\\_fondation\\_robert\\_schuman\\_8\\_septembre\\_2006\\_bruxelles\\_bibliotheque\\_solvay](http://www.u-m-p.org/site/index.php/ump/s_informer/discours/fondation_friends_of_europe_amis_de_l_europe_et_la_fondation_robert_schuman_8_septembre_2006_bruxelles_bibliotheque_solvay).

<sup>47</sup> Nicolas Sarkozy, *Mes objectifs en matière de politique internationale*, Conférence de presse sur la politique internationale, 28 février 2007, <http://www.u-m-p.org>. Also an article by Sarkozy's advisor on European affairs: Alain Lamassoure, *Après l'échec de la Constitution, relancer l'Europe*, Challenge Europe, février 2007, [www.alainlamassoure.eu/liens/600.doc](http://www.alainlamassoure.eu/liens/600.doc).

<sup>48</sup> S. Royal, Propositions d'une France forte en Europe et active pour la paix dans le monde, [www.desirsdavenir.org/index.php?c=sinformer\\_propositions&serie=9](http://www.desirsdavenir.org/index.php?c=sinformer_propositions&serie=9), also *Une France forte et respectée*, les propositions sur les questions européennes, internationales et environnementales, 9 novembre 2007, [www.desirsdavenir.org/index.php?c=sinformer\\_discours&id=385](http://www.desirsdavenir.org/index.php?c=sinformer_discours&id=385). Also, interviews: Interview de Ségolène royal dans la revue „Diplomatie” of 3 mars 2007, [www.desirsdavenir.org/index.php?c=sinformer\\_discours&id=1080](http://www.desirsdavenir.org/index.php?c=sinformer_discours&id=1080), *Les quatre priorités de Ségolène Royal*, “Le Figaro” of 5 mars 2007, [www.lefigaro.fr/election-presidentielle-2007/20070305.WWW000000576\\_les\\_quatre\\_priorites\\_de\\_segolene\\_royal.html](http://www.lefigaro.fr/election-presidentielle-2007/20070305.WWW000000576_les_quatre_priorites_de_segolene_royal.html)

reached during the German presidency and, as regards the French presidency in the EU in 2008, Royal promises to call a referendum on the future treaty by June 2009.

The new document should consider social matters to a greater extent than the present draft constitutional treaty does. The objective should be to incorporate into the treaty matters that make up the “European social model”, which, as argued by Royal, is based on high employment stability, right to high-quality continuous education and strict observance of union rights. Economic competition of member states should be avoided, using fiscal mechanisms and social laws. The criteria of social convergence should be drafted, so that progress could be gauged in the area of pay, work conditions, equality between genders, access to vocational education, occupational safety.

Royal is critical about the mini-treaty, suggested by Sarkozy, claiming that a hasty adoption of the document, without consulting the society, will lead to confusion and not serve the interests of the EU, or its citizens. At the drafting stage of the new document, the following areas should be focused on: 1) environmental protection, notably renewable energy sources, 2) research, in particular enhanced links between research groups, growth in EU research spending, and 3) education. It should be demonstrated to citizens that the EU is useful for them. If this can be achieved, the adoption of the new treaty should not pose any problems.<sup>49</sup>

**François Bayrou:** The representative of the Union for French Democracy is receiving increasing attention in the course the presidential election campaign. From January to early March, the support for this candidate grew by over 10 percentage points. Currently, the figure is at 18%. His proposals regarding the institutional reform in the EU contain items identical to those coming from the platforms of both of his key opponents.<sup>50</sup>

Bayrou argues that the concept of drafting the constitutional treaty was the right one although the actual outcome was far from perfect. The drafted text proved to be totally incomprehensible to citizens. The candidate of the Union for French Democracy expects that during the German presidency, Member states conclude that the treaty is unacceptable and schedule the intergovernmental conference to analyse charges brought against the document, as well as draft a new one. Representatives of European and national parliaments should be involved in the work on the treaty. The outcome of the work formula referred to by the candidate as “IGC+” should be a document that is clearer and much shorter. There is no room in it for part III of the present draft TCE, devoted to EU policies.

Bayrou does not present his preferences on specific issues, such as the presidency, voting system, Minister of Foreign Affairs, co-decision procedure. His only statement is that bringing the EU closer to its citizens and its transformation into the “Europe of citizens” is necessary. He is also a proponent of the Union of two circles – one covering all present member states and based on trade exchange and common laws, and the second one, composed of Eurozone states, based on the drive for political integration.

Bayrou commits himself to organising a referendum on the treaty, sparing no criticism towards Sarkozy’s plan, providing for the parliamentary ratification, without consulting the society.

**Jean-Marie Le Pen:** Supported by 12% of voters, Jean-Marie Le Pen of the National Front differs materially from his rivals. He is a staunch opponent of the present European Union, arguing that its supra- and “anti-national” nature has led France to catastrophe. Since the inception of the idea of the constitutional treaty, Le Pen has been very critical towards the project. In 2005, he ran a campaign against its adoption.<sup>51</sup> At present, he believes that the treaty is dead and that any discussion on the subject is pointless, or even represents an insult to the citizens of France and Netherlands, who expressed their negative attitude in the referendum.

<sup>49</sup> S. Royal, *Non-prolifération nucléaire, Conflit israélo-palestinien, OTAN, Europe sociale, Coopération avec l’Afrique: Ségolène Royal répond aux questions des militants*, 9 novembre 2007, [www.desirsdavenir.org/index.php?c=sinformer\\_discours&id=387](http://www.desirsdavenir.org/index.php?c=sinformer_discours&id=387).

<sup>50</sup> Bayrou expressed his position on the institutional reform of the EU in his address *Un texte simple et lisible comme nouvelle Constitution européenne*, Strasbourg, 12 février 2007, [www.bayrou.fr/discours/bayrou-strasbourg-120207.html](http://www.bayrou.fr/discours/bayrou-strasbourg-120207.html). See also press conference organised after the address *Traité de l’union européenne - Bayrou 2007*, conférence de presse au Parlement européen à Strasbourg, sur la relance du projet européen, 12 février 2007, [www.bayrou.fr/evenements/bayrou-conference-de-presse-strasbourg-120207.html](http://www.bayrou.fr/evenements/bayrou-conference-de-presse-strasbourg-120207.html); also proposals for Europe *L’Europe est notre chance de rester nous-mêmes*, <http://www.bayrou.fr/propositions/europe.html>.

<sup>51</sup> J.-M. Le Pen, *Le discours du NON au référendum sur la Constitution européenne*, 1er mai 2005, [www.frontnational.com/doc\\_interventions\\_detail.php?id\\_inter=36](http://www.frontnational.com/doc_interventions_detail.php?id_inter=36). Jean-Marie Le Pen, *Constitution pour l’Europe*, Parlement Européen – Strasbourg, 12 janvier 2005, [www.frontnational.com/doc\\_interventions\\_detail.php?id\\_inter=34](http://www.frontnational.com/doc_interventions_detail.php?id_inter=34).

Le Pen is very critical towards his rivals, Sarkozy in particular.<sup>52</sup> He rejects the present, draft TCE and suggests a revision of the European integration project. He offers his vision of the European Union, that he would promote, in the event of his victory, among other EU members.<sup>53</sup> In the event that they reject his development model, he will organise a referendum on France's membership in the EU, which may lead to a situation where France withdraws from the EU.

The National Front candidate supports the EU based on free and sovereign national states, cooperating in areas such as industry. He also recognised police, diplomatic and environmental protection cooperation. He is positive that the "Great Europe of Nations" should have a geopolitical dimension, to unite the states of the Christian civilisation that share their interests and culture, and face similar threats.

In terms of future relations between the EU and France, Le Pen argues that France should: 1) regain legal sovereignty, as it is inadmissible that one out of every four legal rules used domestically comes from the EU, and that institutions located in Brussels have a greater impact on the shape of the national law than the central or local governments; 2) regain territorial sovereignty, by restoring internal borders within the EU. Le Pen criticises the surrender of the vetoing right in all matters concerning asylum, illegal and legal immigration. He claims that the free flow of citizens in the EU, as well as accession to the Schengen area led to growing immigration figures in France; 3) regain economic sovereignty, limited by the common currency. To that end, national currency should be restored, along with the right to freely use national economic and financial policy instruments.

As argued by Le Pen, social policy, internal security and the judiciary belong to sole competencies of Member States, and the EU may not deal with these topics. He also declares that, if elected, he will introduce a provision in the French constitution requiring a national referendum prior to any modification of European treaties.

## Germany

The christian-democratic-social democratic government headed by Angela Merkel is one of the most important supporters of the treaty establishing a constitution for Europe. In their official statements, German politicians emphasised primarily the need to facilitate EU actions, whereas the rise, in terms of political power, of Germany, to begin with the effective date of the new institutional makeup, is rarely tackled. A sizeable portion of German intellectuals and politicians (notably from the Green Party) underscore the necessity to deepen integration among EU member states and strengthen Community institutions.

The support for the constitutional treaty is an outcome of a consensus between Germany's two major political powers. The adoption of the treaty in an unchanged form is supported both by the ruling parties: Christian-democratic CDU and CSU, and social democratic SPD, and by opposition liberals (FDP) and the Green Party. The coalition agreement of November 2005, signed by CDU, CSU and SPD, states that: *We support the European Constitutional Treaty. It represents an important step forward, towards Europe focused on values, fairer in social terms, with broader civil rights, EU and member states' competencies divided in a better way, Europe with less regulation and more democracy as well as with more robust participation of national parliaments. Then, the European Union will become more democratic, effective and more transparent, and its ability to act will also grow.*<sup>54</sup> German politicians use similar rhetoric at present, too.

The constitutional treaty also enjoys strong public support. According to Eurobarometer of 2006, as many as 73% of Germans support it, while a mere 17% oppose it.<sup>55</sup> It should be noted that public debate in Germany on upsides and downsides of the document has been reduced to a trickle, and statements by

<sup>52</sup> J.-M. Le Pen, *Sarkozy au service d'Angela Merkel*, 7 février 2007, <http://lepen2007.fr/blog/index.php?2007/02/07/151-sarkozy-au-service-dangela-merkel>.

<sup>53</sup> Proposals on EU in Jean-Marie Le Pen Projet présidentiel, Le Bourget, 12 novembre 2006, [www.frontnational.com/doc\\_interventions\\_detail.php?id\\_inter=51](http://www.frontnational.com/doc_interventions_detail.php?id_inter=51), as well as Le Pen's electoral platform on Europe, [www.lepen2007.fr/blog/index.php?europe](http://www.lepen2007.fr/blog/index.php?europe).

<sup>54</sup> See *Gemeinsam für Deutschland—Mit Mut und Menschlichkeit. Koalitionsvertrag zwischen CDU, CSU und SPD*, p. 127, [www.bundesregierung.de/nsc\\_true/Content/DE/\\_\\_\\_Anlagen/koalitionsvertrag,templateId=raw,property=publicationFile.pdf/koalitionsvertrag](http://www.bundesregierung.de/nsc_true/Content/DE/___Anlagen/koalitionsvertrag,templateId=raw,property=publicationFile.pdf/koalitionsvertrag) (12.03.2007).

<sup>55</sup> See *Eurobarometer 66, Herbst 2006, Nationaler Bericht Deutschland*, p. 19, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_de\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_de_nat.pdf) (14.03.2007).

politicians on the issue are vague, often combined with ignorance regarding the fundamental principles of the way the EU operates.<sup>56</sup>

Groups that criticise TCE are few and far between. The post-communist, parliamentary Left Party (former Party of Democratic Socialism) condemns the document defending a leftist position, arguing it is intended to strengthen the economic "neoliberalism", prevalent in the EU.<sup>57</sup> Right-wing criticism (neo-Nazi NPD, and factions within CDU and CSU) emphasises too far-reaching interference with competencies of national states and no reference to Christian values. During the 2005 vote in Bundestag, 20 deputies from CDU/CSU faction voted against approving the president's ratification of the Treaty.

Christian-democratic "dissidents" are supported by some constitutionalists, experts and writers, who underscore the removal of some competencies from the Bundestag and unclear division of competencies between member states and the EU.

One of the most recognised German criticsers of the treaty is CSU's deputy Peter Gauweiler. He demanded incorporation in the treaty of the reference to God (this was a proposal by the entire German Christian-democratic camp). When the Bundestag agreed to the ratification of the Constitution in the form accepted by the European Council on October 2004, that is without *invocatio Dei*, or even a mention of Christianity, Gauweiler filed a complaint with the Constitutional Court, claiming a conflict between the treaty and the German Constitution. His reasoning was that adopting a constitutional treaty would mean superseding the present German Constitution by a different constitutional system, which, under art. 146 of the Constitution, requires a referendum. Because of this complaint, President Horst Köhler announced that he will ratify TCE only after the matter has been investigated by the Constitutional Court, which decided, in October 2006, that it would proceed to investigating the case only when the final shape of the treaty is decided on, that is after a political decision of the European Council announcing the end of the "reflection period".

Another event that resonated significantly was an article from January 2007, by a former president Roman Herzog and Lüder Gerken, director of the well-reputed Centre for European Policy, criticising the Constitutional Treaty for reinforcing the present domination in the EU of the executive over the legislative.<sup>58</sup> The authors also criticised EU officers (and judges of the European Court of Justice) for a growing number of cases where the subsidiarity principle was infringed, and the governments of EU member states for bypassing the legislation process in member states by insisting in Brussels on particular directives.

When describing the status of the German debate on the European Union, words of Ulrich Speck, a commentator for the well-known "Die Zeit" weekly, are worth quoting: *The Constitution is like modern art. Nobody understands it. But whoever dares to criticise it, is instantly exposed as being ignorant.*<sup>59</sup>

The coalition agreement between CDU, CSU and the Green provides that: *We declare ourselves in favour of continuing with ratification of the European treaty in the first half of 2006, and to give it new impetus in the first half of 2007, during the German presidency. In this connection, we will propose that national parliaments be strengthened already before the entry into force of the constitution, by applying the subsidiary early warning system, which will not require any changes to the Treaty.* All public statements of German politicians are largely reformulations of the above position. Testing attitudes of individual EU states towards the future of the treaty, establishing the framework for the discussion and drafting the "road map" of subsequent institutional reform-related actions, were announced as key objectives for the German presidency in the EU. Angela Merkel's government releases very little information on its proposals and plans for recovery from the crisis – which follows both from the fact of presiding over the EU Council and from the conviction that Germany should play a role of the "fair broker" in the EU.

Nevertheless, Germany's dislike for the "minitreaty" plan, with the simultaneous emphasising the need to preserve a "substantial part" of the document is clearly there. The rejection of the treaty in France and

<sup>56</sup> See ARD television channel recording of 12 May 2007, on the occasion of ratification by Bundestag of the Constitutional Treaty [http://daserste.ndr.de/container/file/t\\_cid-2853670.pdf](http://daserste.ndr.de/container/file/t_cid-2853670.pdf) Deputies who specialise in foreign affairs, when asked by TV reporters, showed their utter? complete ignorance on the EU.

<sup>57</sup> See *Beschluss der 1. Tagung des 9. Parteitages der PDS, Potsdam, Oktober 2004*, passage on the constitution is published on the official Internet site of the party <http://sozialisten.de/politik/themen/europaverfassung/index.htm> (12.03.2007). See also interview with a leading politicians of the Left Party?, Oskar Lafontaine, "Neues Deutschland", 8 III 2007, also available at: [http://sozialisten.de/sozialisten/medienspiegel/view\\_html?zid=35292](http://sozialisten.de/sozialisten/medienspiegel/view_html?zid=35292) (12.03.2007).

<sup>58</sup> R. Herzog, L. Gerken, *Europa entmachtet uns und unsere Vertreter*, „Welt“ of 13 January 2007, also available at [www.welt.de/politik/article715345/Europa\\_entmachtet\\_uns\\_und\\_unsere\\_Vertreter.html](http://www.welt.de/politik/article715345/Europa_entmachtet_uns_und_unsere_Vertreter.html).

<sup>59</sup> U. Speck, "Kosmoblog", entry of 16 January 2007, [www.zeit.de](http://www.zeit.de).

Netherlands is interpreted by German politicians as a sign of protest against the governments there, rather than as a no to the constitutional treaty itself.

In autumn 2005, the German government seemed to be considering an idea of repeated ratification in Netherlands and France, this time not by referendum, after some less important provisions are deleted (part III). This legal trick, sometimes referred to as "constitutional treaty minus" would allow the validity of ratification in the states that have done it to be preserved. It appears, however, that this idea was abandoned. A much more likely position of Germany is to propose shortening of the treaty and modifying it in a way that alleviates the worries of the French and Dutch. This can be done by for example adding an extra social protocol. Germany is also willing to abandon the name "constitution". Ratification of this modified treaty in other EU states would follow the parliamentary track.

If other states agree to this plan, intergovernmental consultations could finish before the December 2007 summit of the European Council, in 2008 the modified treaty could be ratified in Member States, so that it would be effective already in 2009, for the election to the European Parliament. Owing to France's reluctance, Germany is unlikely to promote incorporation into the preamble of the treaty of a reference to Christian values, which was what Chancellor Merkel promised to Pope Benedict XVI in August 2006.

Negotiations on the treaty that Germany are involved in with other states of the Community are extremely discreet. As a result, the opposition FDP accused Merkel of equivocation and demanded that she should show her trump cards.<sup>60</sup> On the other hand, the Left Party demands a referendum on the treaty. The government prefers caution, in particular that the presidential campaign is in progress in France.

## Greece

The question of EU institutional reform is not a topic in the public debate. In Greece's European policy, the Turkish and Cypriot problems remain highest on the agenda, followed by the Western Balkans issue. Greece advocates EU enlargement, but at the same time makes sure that no (special) allowances are made for Turkey.<sup>61</sup>

Those who have tackled the constitutional treaty issue include primarily the Greek Minister of Foreign Affairs, Dora Bakoyannis. In her view, the document provides us with appropriate tools to be able to effectively meet the challenges that the EU faces. As argued by her deputy, Yannis Valinakis, in a meeting of friends of the constitutional treaty in Madrid, it is important also because it contributes to the greater role of small states and greater security, has provisions on the protection of the EU external borders, development of island regions and tourism development actions.<sup>62</sup>

Bakoyannis is a proponent of TCE adoption in its present shape, deeper European integration and embarking on "all actions that lead to united Europe."<sup>63</sup> She argues that the EU needs a TCE that will allow institutional modernisation, required to operate more effectively and to speak in the world as one. Greece's Minister of Foreign Affairs indicates, however, that the rejection of TCE in referendums in France and Netherlands cannot be ignored. If agreement on the treaty cannot be reached (and this is to be decided already after the presidential elections in France), member states will probably be forced to consider the option of signing a new, smaller treaty. The decision on how to do it should be taken jointly, that is by all states, irrespective of whether they have ratified the treaty or not. The members that have not cannot be solely responsible for finding solutions. The usefulness and need for TCE should be jointly analysed, bearing in mind the requirements of the new reality. The final decision on the treaty cannot be taken before

<sup>60</sup> See *Opposition hält Merkel Mutlosigkeit vor*, „Tagesspiegel“, Internet edition of 1 March 2007, [www.tagesspiegel.de/politik/nachrichten/eu-verfassung-merkel/94073.asp](http://www.tagesspiegel.de/politik/nachrichten/eu-verfassung-merkel/94073.asp) (13.03.2007).

<sup>61</sup> EU Enlargement (Issue of the month, December 2006), 1 December 2006, [www.greekembassy.org/embassy/content/en/Article.aspx?office=1&folder=904&article=19356](http://www.greekembassy.org/embassy/content/en/Article.aspx?office=1&folder=904&article=19356).

<sup>62</sup> *Participation of Deputy FM Mr. Y. Valinakis in the informal "Friends of the Constitutional Treaty" meeting of Ministers for European Affairs held in Madrid*, 29 January 2007, [www.greekembassy.org/Embassy/content/en/Article.aspx?office=1&folder=19&article=19608](http://www.greekembassy.org/Embassy/content/en/Article.aspx?office=1&folder=19&article=19608).

<sup>63</sup> The most comprehensive vision of the Constitutional Treaty's future and EU institutional reform was offered by Dora Bakoyannis in her lecture at an event by the Allianz Cultural Foundation. See *Fifty years after the Treaty of Rome—Looking forward*, Speech of FM Ms. Bakoyannis at an event organised by the Allianz Cultural Foundation, (Munich, 14.01.07), [www.greekembassy.org/embassy/content/en/Article.aspx?office=1&folder=19&article=19502](http://www.greekembassy.org/embassy/content/en/Article.aspx?office=1&folder=19&article=19502).



the elections in France. This is the time for establishing the “rules of the game”— task for the German presidency.<sup>64</sup>

Whatever the decisions on the institutional future of the EU, they should not depart significantly from what is already in the constitutional treaty. All basic rules and agreements contained therein should be retained. The subtle balance achieved by the document may not be wasted. The new treaty should not be limited to institutions. If this is the case, the document will not be sufficient and will fail to satisfy Greece. The “cherry picking” strategy is not a solution and should be avoided.

Greece’s Minister of Foreign Affairs argues that the new treaty should feature provisions on the objectives of European integration, even if there are conflicting views in this respect. Without being too detailed about this aspect, he only indicates that the EU must follow the path of deeper integration and unification of Europe (Western Balkans, Turkey). The new treaty should specify the principles on which the EU should rest. The idea of enhanced cooperation is in the limelight. Member states should be provided with an opportunity to move forward to establish an *avant-garde* of sorts. Affiliation with this group should be based on two criteria: willingness and preparedness of the member state. The Eurozone is an example to follow in this context. The emerging opinion is that the EU must move forward, even if this means merely following those that are prepared, that is the *avant-garde* or the states adopting the smaller treaty. Methods should also be specified that allow deeper European integration. The Greeks support the Europe of projects, and the Minister of Foreign Affairs refers to cooperation in migration and energy as having the potential to unite Europeans.

Greece ratified the Treaty Establishing a Constitution for Europe on 19 April 2005. The ratification followed the parliamentary procedure, with 286 votes in favour and 17 against. The yes voters were the two main political parties, the ruling New Democracy (45.5% of seats in the parliament) and the opposition, social-democratic PASOK (40.5%). The document enjoys robust (72%) support of the society.<sup>65</sup>

## Hungary

Hungary was the second member state to ratify TCE (after Lithuania). During the vote in the parliament on 20 December 2004, the treaty was supported by 304 deputies out of 385 members of the National Assembly (9 voted against), and the ratification was complete with the signature made by President Ferenc Madl. All deputies from the ruling coalition (Hungarian Socialist Party, and Alliance of Free Democrats) voted in favour of the treaty. The document was also supported by 127 deputies of the opposition FIDESZ party. Several FIDESZ deputies, and a few independent deputies voted against the treaty.

Hungary declared itself in favour of continued TCE ratification, are unhappy with the “cherry-picking” procedure, and would like to see the “stalemate” overcome. They see TCE as a “milestone” in Europe’s development, which defines and strengthens common values shared by Member States, makes the EU “more transparent and democratic”, setting up conditions for deeper integration<sup>66</sup>. As argued by Hungary, the adoption of TCE may enhance the EU’s unity and prevent its “fragmentation”. The achievements of the present integration model should be seen as success, but the need to “bring the EU closer” to the citizens is also emphasised. They expect from the German presidency to come up with specific proposals for the resumption of TCE work, put on hold in mid-2005. Hungary expects the agreement to be reached by the end of 2008, so that decisions on the EU institutional reform can be taken before the European Parliament elections.

Owing to a large Hungarian minority in the neighbouring states, Hungary stands for incorporation into the future treaty of an explicit provision on the protection of rights of national minorities. The Hungarian government also wants the document to contribute to the enhancement of the EU enlargement process, considering primarily Croatia and the Balkan states. Hungary is a member of the group of nine states (together with Belgium, Bulgaria, Cyprus, France, Greece, Spain, Luxembourg and Italy) that support the “strengthening of the social Europe”. In their opinion, the EU should ensure “balance between economic freedom and social rights”. The social Europe is defined as a set of “common values”—social fairness,

<sup>64</sup> Interview of FM Ms. D. Bakoyannis in the French newspaper *Le Figaro*, with journalists Mr. A. Barluet and Ms. C. Fauvet-Mycia, Athens, 25 January 2007, [www.mfa.gr/www.mfa.gr/Articles/en-US/26012007\\_McC\\_KL1203.htm](http://www.mfa.gr/www.mfa.gr/Articles/en-US/26012007_McC_KL1203.htm).

<sup>65</sup> *Eurobarometer 66, Public Opinion in the European Union*, Autumn 2006, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_el\\_exec.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_el_exec.pdf).

<sup>66</sup> Prime Minister Gyurcsány’s Speech on Latest Foreign Policy Developments and Hungarian Standpoints, [www.mfa.gov.hu/NR/rdonlyres/EF808473-91F1-4002-B53A-C5E7CBE27864/0/070307kulpol\\_en.pdf](http://www.mfa.gov.hu/NR/rdonlyres/EF808473-91F1-4002-B53A-C5E7CBE27864/0/070307kulpol_en.pdf) (07.03.2007).

equality and solidarity.<sup>67</sup> Hungary also supported the development of a common EU energy policy, considering the principle of solidarity among Member States in the face of various threats, and striving for a common position in negotiations with external partners.<sup>68</sup> On this issue, however, the government's actions have recently been severely criticised by the opposition, as failing to meet the challenges of solidarity in Europe.<sup>69</sup>

The most important political parties in Hungary do not raise any reservations to TCE. Against the treaty stands primarily the extreme right, although it does not have a parliamentary grouping. TCE is, however, on the sidelines of public debate. Following the elections of April 2006, the socialist-liberal coalition remained in power, achieving a stable majority in the parliament (by 33 votes), although from autumn 2006 the state fell into a deep crisis, resulting from financial collapse and severe political fighting (riots, etc.). The government's European policy is not criticised by the parliamentary opposition (although it is sometimes attacked by the extreme right).

According to the survey carried out in autumn 2006, the majority of Hungarian citizens (68%) believe that TCE is necessary for EU institutions to function properly. Only 15% of respondents were of the opposite opinion. Most Hungarians argue (positive answers are several percent higher than the EU average) that, following the adoption of TCE, the Union will be more democratic, operate more effectively and transparently, be more sensitive socially, as well as more competitive economically. Evaluating the evolution prospects for the Hungarian position on European integration, we should consider the falling rate of EU-membership support: a public opinion survey of autumn 2006 indicated a drop by 10 per cent (biggest drop across the EU), down to 39%. Only 41% of respondents (drop by 11 per cent) acknowledged the benefits Hungary enjoys from EU membership.<sup>70</sup>

## Ireland

The referendum in Ireland was postponed until all ambiguities related to the constitutional treaty are explained at the Community level<sup>71</sup>. The Irish constitution provides that any changes to the Community treaties require a national referendum. Therefore, the Irish position has an inherent paradox in that, on the one hand, it is declaratively attached to the present TCE text, and on the other shows a delaying behaviour as regards subjecting it to national referendum, expecting that the initiative on the resolution of the present standstill will be offered by another EU member state. Partially, the present play-safe attitude may be explained by the memories of the fiasco of the first referendum on the Nice Treaty.

The Irish government claims that currently there is no alternative solution to the constitutional treaty.<sup>72</sup> On 9 May 2006, Prime Minister Bertie Ahern confirmed Irish support for TCE saying "The European Constitution is the right choice for Europe. It is the right choice for Ireland."<sup>73</sup> In line with this attitude comes the support for the German presidency in terms of its TCE actions.<sup>74</sup> As argued by the Irish, the constitution is a product of a certain balance, achieved after renegotiating the "package," which, once unpacked, cannot be put together again.<sup>75</sup> The Irish position as to specific solutions of the Constitutional Treaty has been clearly presented during the negotiations on the document and, has not changed materially following the rejection of TCE in referendums in France and Netherlands.<sup>76</sup>

<sup>67</sup> *Nine states call for revival of social Europe*, <http://euobserver.com/9/23505>.

<sup>68</sup> Kinga Göncz commented late on Thursday on the European Council's summit of 8–9 March, [www.mfa.gov.hu/kum/en/bal/actualities/ministers\\_speeches/Hungary+backs+a+unified+European+Union+energy+policy+and+is+ready+to+curb+its+carbon+dioxide+emissio.htm](http://www.mfa.gov.hu/kum/en/bal/actualities/ministers_speeches/Hungary+backs+a+unified+European+Union+energy+policy+and+is+ready+to+curb+its+carbon+dioxide+emissio.htm).

<sup>69</sup> See e.g. "We do not want to become Gazprom's happiest barrack," [www.fidesz.hu/index.php?CikkID=70439](http://www.fidesz.hu/index.php?CikkID=70439).

<sup>70</sup> *Eurobarometer 66. Közvéleménykutatás az Európai Unióban 2006. ŐSZ*. [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_hu\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_hu_nat.pdf).

<sup>71</sup> Noel Treacy, Minister of State for European Affairs, *Address to the Irish Chapter of Association of European Journalists*, Dublin, 22 March 2007, <http://www.taoiseach.gov.ie/index.asp?locID=440&docID=3312>.

<sup>72</sup> N. Treacy, *European Constitution- Pathways and Pitfalls*, [www.taoiseach.gov.ie/index.asp?docID=26](http://www.taoiseach.gov.ie/index.asp?docID=26) (5.03.2006).

<sup>73</sup> B. Ahern, *Celebration of Europe Day*, Dublin City Hall, [www.taoiseach.gov.ie/index.asp?locID=200&docID=2616](http://www.taoiseach.gov.ie/index.asp?locID=200&docID=2616) (9.05.2006).

<sup>74</sup> Dermot Ahern, Irish Minister of Foreign Affairs, at an event to celebrate the accession of Bulgaria and Romania to the EU, Iveagh House, 10.01.2007, <http://foreignaffairs.gov.ie/home/index.aspx?id=27319>.

<sup>75</sup> Bertie Ahern, meeting with the European Commission, Brussels, [www.taoiseach.gov.ie/index.asp?locID=200&docID=2983](http://www.taoiseach.gov.ie/index.asp?locID=200&docID=2983) (8.11.2006).

<sup>76</sup> White Paper on the European Constitution, 13.10.2005.

Noel Treacy, the minister of state for European Affairs at the Irish MFA, states that the treaty should be implemented as quickly as possible and supports the effort of the German presidency in this respect. He cannot see a realistic alternative to the balance and content agreed on in 2004. He sees threats related to the departure from the once-agreed text. Non-negotiable are institutional provisions, which are a product of balancing out the positions of member states, notably those that guarantee the equality of member states, or the composition of the European Commission. The agreement on TCE ratification should be arrived at before the European Parliament elections in 2009. The Irish oppose any changes that would be related to the substance of the treaty, but could consider TCE modifications as annexes and declarations, addressing concerns of specific member states.<sup>77</sup>

## Italy

The process of the constitutional treaty ratification ended on 6 April 2005. A political reshuffle – the defeat of Silvio Berlusconi and take-over by Romano Prodi – failed to provoke any changes to the views on the EU institutional reform. The Italian government is a staunch supporter of the constitutional treaty,<sup>78</sup> although not all coalition forces support the project. The Communist Refoundation Party (Rifondazione Comunista), holding 41 seats in the Parliament (6%), is one of the political powers backing the government, but still declares its opposition against TCE. Public opinion surveys indicate that the document is supported by 68% of Italian citizens.<sup>79</sup>

The Italian government is positive that the European Union needs an institutional reform. Following the enlargement, the EU is less efficient, a problem that would be resolved if the treaty, or an alternative solution, was adopted. Unlocking the constitutional process would allow the completion of the enlargement process, with the accession for the states of Western Balkans, and, a bit later, also Turkey. However, we should consider the rejection of the treaty in France and Netherlands. Under the circumstances, Italy's Prime Ministers acknowledges potential negotiations on the new treaty, if it is assumed that the starting point for the negotiations will be the present project. The priority is to save the "essence" of the Constitutional Treaty.

It is expected that an action plan on the Treaty will be prepared during the German presidency<sup>80</sup>, and that its implementation will commence after the election cycle in France. The finalisation of TCE and proceeding with the institutional reform is impossible without France. The final agreement must be reached at the beginning of 2008, so that the EU institutional reform is closed before the elections to the European Parliament, to be held in 2009.

In October 2006, Minister of Foreign Affairs Massimo D'Alema, replying to a proposal for a mini-treaty, formulated by Nicolas Sarkozy, proposed the adoption of the core, or basic treaty, that would incorporate all the most important compromises of the Constitutional Treaty<sup>81</sup>. The problem of the name "Constitutional Treaty" is, according to the minister, of secondary importance. What is key is that the future treaty retains the important elements of the present project. In particular, these are the position of the Minister of Foreign Affairs, who will preside over the General Affairs Council and will be a member of the Commission, establishment of the permanent chairman of the European Council, extension of majority voting, introduction of the double majority mechanism and direct democracy, as well as clearer division of competencies and sources of law. The Charter of Fundamental Rights should also be binding.

The Minister of Foreign Affairs also indicated that the EU needs greater flexibility. Since the number of member states has risen, it is required that the ability to "manage differences and otherness" is increased. This could be achieved on the condition that the EU will act on the basis of the principle of "different speeds". A common denominator for all members of the enlarged EU is undoubtedly common rules and

<sup>77</sup> Noel Treacy, *Address at Meeting of Friends of the Constitutional Treaty*, [www.taoiseach.gov.ie/index.asp?locID=440&docID=3188](http://www.taoiseach.gov.ie/index.asp?locID=440&docID=3188) (26.01.2007).

<sup>78</sup> Government platform presented by Romano Prodi at the Parliament, *Dichiarazioni Programmatiche del Presidente del Consiglio dei Ministri On. Prof. Romano Prodi alla Camera dei Deputati*, 22 maggio 2006, [www.governo.it/Presidente/Interventi/testo\\_int.asp?d=28210](http://www.governo.it/Presidente/Interventi/testo_int.asp?d=28210).

<sup>79</sup> *Eurobarometro 66, Opinione Pubblica Nell'unione Europea, Autunno 2006*, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_it\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_it_nat.pdf).

<sup>80</sup> P. Valentino, *Prodi e Merkel: «Un manifesto per l'Europa*, "Il Corriere della Sera" of 8 dicembre 2006.

<sup>81</sup> M. D'Alema, *Nuovi obiettivi per l'Europa, Rivista trimestrale*, "Affari Esteri" of 26 ottobre 2006, [www.palazzochigi.it/Vicepresidente/dalema/interventi\\_interviste/testo\\_int.asp?d=29995](http://www.palazzochigi.it/Vicepresidente/dalema/interventi_interviste/testo_int.asp?d=29995). Letter from the Minister of Foreign Affairs on the institutional reform: *La Comunità Internazionale La seconda occasione dell' Europa*, "La Repubblica" of 27 ottobre 2006, [www.palazzochigi.it/Vicepresidente/dalema/interventi\\_interviste/testo\\_int.asp?d=30025](http://www.palazzochigi.it/Vicepresidente/dalema/interventi_interviste/testo_int.asp?d=30025).

internal market. However, already in the present EU there are groups more advanced in terms of integration, such as e.g. the Eurozone. The formation of groups of this type in the future should be allowed, on the condition that they are of inclusive, rather than exclusive nature. This will facilitate the formation of the „hard core” for others to follow, composed of states that participate in all types of cooperation and integration, including political, internal security, foreign policy and defence cooperation. As argued by the minister, this solution will be most advantageous for the political development of the EU.

## Latvia

Latvia's position towards the constitutional treaty is rather vague. In January 2007, President Vaira Vike-Freiberga only stated that *one major challenge is the lack of progress on the EU Constitutional Treaty*.<sup>82</sup> However, the state participated as a guest in the conference of friends of the constitutional treaty, held in Madrid on 26 January 2007, whose participants made their signatures below the proposal to "retain the substance" of the constitution, that is against the "minitreaty".

It should be noted that the debate over the constitutional treaty in Latvia is hardly present. Interestingly, the Latvian parliament ratified the constitution in June 2005, soon after the lost referendums in France and Netherlands. Only a handful of deputies from the pro-Russian Latvian Socialist Party voted against the treaty. *Maybe this constitution is not perfect, but it's still a step forward for the European Union, and this is the best compromise we can reach.*—said Minister for Foreign Affairs Artis Pabriks at that time.<sup>83</sup>

After the March summit of the European Council in Berlin, Minister Pabriks stated that the constitutional treaty in its original form is the best compromise of all, but also expressed his conviction that it would not come into effect in that form. In this context, he also said that the solution to the problem would be to adopt a new legal act, which would contain regulations of the treaty that are not in the present Community law. He also made reference to the need for strict observance of the subsidiarity principle and for strengthening the common foreign and security policy.<sup>84</sup>

## Lithuania

Circumstances of the constitutional treaty ratification by Lithuania: this was the first state of the European Union to ratify the treaty – in November 2004, only two weeks after signing TCE by the European Council, with only a handful of votes against in the parliament. This shows that the Lithuanian elites must have considered the treaty as a document that matches the Lithuanian *raison d'état*. This is further corroborated by the agreement on the Lithuanian foreign policy objectives for 2004-2008, signed in October 2004 by all major political powers.<sup>85</sup>

Currently, there is no debate on the future of the treaty going on in Lithuania. The position presented on 24 January 2007 by the minister of foreign affairs only shows that *whether the EU will be stronger, more effective and more democratic depend on how the issue of the EU Constitutional Treaty will be settled*.<sup>86</sup> The minister clearly indicated that Lithuania stands for the preservation of the substantial contents of the constitutional treaty. Unofficially, Lithuania favours the idea of incorporating energy security into the treaty, in the event it undergoes any minor or major changes.

## Luxembourg

Both politicians and the society of Luxembourg, supporting the treaty in a consultative referendum, held on 10 July 2005, look forward to changes brought by the constitutional treaty. The questions of institutional

<sup>82</sup> See address by President Vairy Vike-Freiberga to the foreign diplomatic corps, [www.mfa.gov.lv/en/news/speeches/2007/January/19-1](http://www.mfa.gov.lv/en/news/speeches/2007/January/19-1) (19.01.2007).

<sup>83</sup> Interview with Latvia's Minister of Foreign Affairs, Artis Pabriks, for "Baltic Times" of 9–15 VI 2005 r, available at: [www.mfa.gov.lv/en/news/speeches/2005/June/09-2/](http://www.mfa.gov.lv/en/news/speeches/2005/June/09-2/).

<sup>84</sup> See press release of Latvia's Ministry of Foreign Affairs of 29.03.2007, "Foreign Ministry starts discussion on Latvia's interests with respect to Constitution for Europe and its future", [www.am.gov.lv/en/eu/news/4341/?pg=9145](http://www.am.gov.lv/en/eu/news/4341/?pg=9145).

<sup>85</sup> See *Agreement between Political Parties of the Republic of Lithuania on the Main Foreign Policy Goals and Objectives for 2004–2008*, [www.urm.lt/popup2.php?item\\_id=255](http://www.urm.lt/popup2.php?item_id=255) (13.03.2007).

<sup>86</sup> See Press Release by the Lithuanian Ministry of Foreign Affairs of 24 January 2007, *We stand for preservation of the contents of the EU Constitutional Treaty*, <http://www.urm.lt/index.php?139483566>.

reform, including TCE, are present in the public debate. A lot of attention is focused on adding social matters to the document's scope.

Luxembourg's Prime Minister Jean-Claude Juncker is of the opinion that the treaty is not "dead". He declares that he will try to defend it<sup>87</sup>. He sees TCE as indispensable for the EU to be able to function effectively. However, he admits that using the term "constitution" was unfortunate. In his opinion, the best moment to adopt the treaty would be before the European Parliament elections of 2009. Juncker believes, citing international public law provisions, that if the states signed TCE, they should subject it to ratification procedure, rather than wait.<sup>88</sup>

In turn, the deputy Prime Minister and the Minister for Foreign Affairs Jean Asselborn confirmed that the text adopted in the referendum of July 2005 is binding for Luxembourg. According to the Luxembourg authorities, a turning point for the discussion on TCE was the meeting in Madrid, where the dominating Euroscepticism was finally conquered. They share the conviction that a new sparkle to rekindle TCE ratification process would be during the German and Portuguese presidency.<sup>89</sup> In the event that any modifications to the document are necessary, those provisions should be strengthened that relate to social matters (e.g. art. I-3).<sup>90</sup>

Particularly active in the public debate on TCE issues is the Minister of Foreign Affairs and Immigration, Nicolas Schmit. He is a proponent of the treaty in its present shape. At the same time, he rejects the concept of "minitreaty" as unrealistic. The constitutional treaty provides the best safeguards for the position and rights of Luxembourg in the enlarged EU. It should become effective in 2009, before the next elections to the European Parliament.<sup>91</sup> Drafting a new text means that it will differ from that submitted for referendum in 2005, therefore a new referendum will be necessary. The existing treaty should be enriched, relying on the will of EU citizens who want European cooperation in the areas where it is weak at the moment – such as the immigration policy, internal and external security, energy problems and climate change. Luxembourg's representatives advocate retaining the Charter of Fundamental Rights as an integral part of TCE.<sup>92</sup> In their opinion, the present difficulties do not stem from the provisions of the treaty, but from the "national context". Potential changes should be limited and apply to some problems only. One of them is the term "constitution", which should be removed.<sup>93</sup>

## Malta

The government takes the view that the Union needs the constitutional treaty in order to act effectively, play a major role in the international arena and accept new members in the future. Minister of Foreign Affairs Michael Frendo said that Malta rejects both the concept of cherry picking and in-picking.<sup>94</sup> In turn, Prime Minister Lawrence Gonzi said that he believed in the need for continued ratification of the constitutional treaty.<sup>95</sup> As argued by David Casa, Maltese deputy to the European Parliament of the ruling National Party (NP), Maltese authorities can agree to certain modifications in the text that reflect the citizens' concerns, with the basic provisions of the treaty retained. The document should be ratified no later than in 2009.<sup>96</sup> However, Malta's representative at the Convention, Peter Serracino Inglott, who is the current advisor to the

<sup>87</sup> Jean-Claude Juncker at the Charlemagne Award presentation in Aachen, 25.05.2006, [www.gouvernement.lu/salle\\_presse/discours/premier\\_ministre/2006/05/25\\_discours\\_juncker\\_karlspreis/25juncker\\_karlspreis\\_EN/index.html](http://www.gouvernement.lu/salle_presse/discours/premier_ministre/2006/05/25_discours_juncker_karlspreis/25juncker_karlspreis_EN/index.html).

<sup>88</sup> J.-C. Juncker, *Le besoin d'Europe*, Collège d'Europe, Brugges, 30.10.2006, [www.gouvernement.lu/salle\\_presse/discours/premier\\_ministre/2006/10/30juncker\\_bruges/index.html](http://www.gouvernement.lu/salle_presse/discours/premier_ministre/2006/10/30juncker_bruges/index.html).

<sup>89</sup> Press release from Jean Asselborn's visit to Slovenia and Albania, 11.10.2006, [www.gouvernement.lu/salle\\_presse/actualite/2006/10/10asselborn\\_slovenie/index.html](http://www.gouvernement.lu/salle_presse/actualite/2006/10/10asselborn_slovenie/index.html)

<sup>90</sup> J. Asselborn, *Déclaration de politique étrangère 2006*, 21.11.2006.

<sup>91</sup> N. Schmit, *Renégocier le traité, pas le réécrire!*, "Le Quotidien", 25.01.2007, [www.gouvernement.lu/salle\\_presse/Interviews/2007/01janvier/25schmit\\_madrid/index.html](http://www.gouvernement.lu/salle_presse/Interviews/2007/01janvier/25schmit_madrid/index.html).

<sup>92</sup> Press release from Nicolas Schmit's visit to London, 2.10.2006, [www.gouvernement.lu/salle\\_presse/actualite/2006/10/12schmit/index.html](http://www.gouvernement.lu/salle_presse/actualite/2006/10/12schmit/index.html).

<sup>93</sup> N. Schmit, *Le referendum du 10 juillet 2005: un vote pour rien?*, 10.07.2006, [www.gouvernement.lu/salle\\_presse/discours/autres\\_membres/2006/07/07schmit/index.html](http://www.gouvernement.lu/salle_presse/discours/autres_membres/2006/07/07schmit/index.html).

<sup>94</sup> See *German EU Presidency priorities and Malta*, „Aggornat”, No. 269 of 27 January 2007, p. 1.

<sup>95</sup> See *Foreign Policy Objectives*, "The Sunday Times" (Malta) of 21 January 2007, [www.timesofmalta.com/core/print\\_article.php?id=249699](http://www.timesofmalta.com/core/print_article.php?id=249699).

<sup>96</sup> See D. Casa, *Consensus Rather Than Confrontation*, European Parliament, Valletta Office, 19.01.2007, [www.europarl.europa.eu/valletta/2/uploads/EP-Valletta-Suppl-OUTPUT.pdf](http://www.europarl.europa.eu/valletta/2/uploads/EP-Valletta-Suppl-OUTPUT.pdf), p. 6.

Prime Minister, voices his concerns that the revised version of the treaty may still be unacceptable to states such as the United Kingdom. He suggests restructuring of the text so that it does not suggest that a federal structure is being established.<sup>97</sup>

There is a public debate on Malta on the future of TCE, although its scope is limited. The ruling NP presents the government's position and arguments on TCE. According to the politicians of the party, the entry into force of the treaty is in Malta's interest and does not threaten its sovereignty.<sup>98</sup> A second major party in the Maltese party system, the Maltese Labour Party (MLP) declares their support for the constitutional treaty, if the ratification process resumes, finally acknowledging the statement that TCE does not deprive Malta of opportunities to run its foreign and defence policy according to the principle of neutrality. The party supports the entry into force of those sections of the treaty, on which there is agreement in other European states. However, the party's leader Alfred Sant states that the final decision will depend on the current status of the negotiated text. MLP, fearing potential referendums, accepts the idea of cherry picking as an alternative, that is a selection of certain solutions of TCE and their adoption based on *ad hoc* treaties, adopted by Member States.<sup>99</sup>

Maltese politicians are currently extremely restrained as to their statements on the EU institutional reforms. However, based on their position from the period of TCE ratification, we could state that Malta may be interested in incorporating a reference to Christianity in the preamble. It is also unlikely to promote the previous number of EC Commissioners, or try to retain the definition of qualified majority from the Nice Treaty, as it is aware that forcing through its position is unrealistic, because this would mean re-opening of the discussion on the entire institutional package. Malta will continue to support such solutions in TCE that guarantee national sovereignty and the important principles of neutrality and equality among members. Therefore, it will demand, according to TCE provisions, six seats in the European Parliament, enhanced role of national parliaments in decision making at the EU level, as well as enhanced principle of subsidiarity, and retaining the unanimity principle in such areas as defence policy, foreign policy (where the support of Maltese society is markedly lower than the average for the Union), or tax policy. It will also support a permanent chairman of the European Council.<sup>100</sup>

According to the Eurobarometer 66 survey of December 2006, 60% of the Maltese support the constitutional treaty, 12% of citizens are against it, while 28% don't have an opinion. The Maltese society is approaching the union average in terms of indicating positive aspects of the treaty's entry into force, the top positive outcomes being enhanced position of the EU in the world, followed by more democratic, economically competitive and effective Union.<sup>101</sup>

## Netherlands

In a consultative referendum, held in June 2005, 61.5% of Dutch citizens rejected the constitutional treaty. The government decided that they would not put TCE in the present shape to a vote again. The currently preferred option is the change of the effective treaty base in order to remove the shortcomings that obstruct an enlarged Union.

The topic of the EU institutional reform, represented by the constitutional treaty, is again gaining ground in the public debate in the Kingdom of the Netherlands. However, the concerns of Dutch society are receiving more attention at present, in particular those related to the democratic deficit in the EU and criteria for future enlargements.

According to Prime Minister Jan Peter Balkenende, the European Union does not need TCE; however, it does need the present treaties to be changed. The new document should amend and complement the present treaties, but only where necessary. Before returning to the discussion on the new treaty, we should

<sup>97</sup> See *EU Constitution: Dead or Alive?*, European Parliament, Valletta Office, 19.01.2007, [www.europarl.europa.eu/va/letta/2/uploads/EP-Valletta-Suppl-OUTPUT.pdf](http://www.europarl.europa.eu/va/letta/2/uploads/EP-Valletta-Suppl-OUTPUT.pdf), p. 11.

<sup>98</sup> See A. Drzewiecka, K. Mich, *Malta*, [in:] K. A. Wojtaszczyk, M. Poboży, A. Wierchowska (eds.), *op.cit.*, p. 242–245.

<sup>99</sup> See *EU Constitution: Dead or Alive?*, p. 11.

<sup>100</sup> See: *Malta's position on the forthcoming EU Intergovernmental Conference, which will focus on the draft EU constitution, was presented by Maltese Prime Minister Eddie Fenech Adami, in a letter sent on 8th September 2003, to Italian Prime Minister and current EU President Sig. Silvio Berlusconi*, [www.epin.org/pdf/IGCMalta.pdf](http://www.epin.org/pdf/IGCMalta.pdf); I. Scunèaitè, *Malta*, [in:] N. Eschke, T. Malick (eds.), *op.cit.*, p. 122.

<sup>101</sup> Data from: *Eurobarometer 66, Public Opinion in the EU European Union. National Report, Malta, Autumn 2006*, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_mt\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_mt_nat.pdf), p. 21–23.

primarily focus on the "reflection period", and then move on to enhance cooperation in the EU, with some exceptions, such as pension systems, taxes, educational and health care systems.<sup>102</sup>

An indication of returning interest in the EU institutional reform is the entering to the coalition agreement of provisions on the shape of the future treaty. The new agreement provides that the new, European treaty, to be adopted in the future, will differ "in terms of content, scope and name" from TCE.<sup>103</sup> However, if *quasi*-constitutional elements are removed from it (especially the name "constitution"), then the State Council, that is the body appointed under the coalition agreement to decide on the mode of ratification, could opt for the "easier" parliamentary track, rather than referendum. The Dutch government advocates clear definition of national and Community competencies in the new document. They also demand broader competencies for national parliaments and opt for retaining the Union's attributes (flag, anthem) in the new text.

A confirmation and elaboration of the Dutch position on TCE as agreed in the coalition agreement, is a joint letter of the Minister of Foreign Affairs Maxime Verhage and Minister for European Affairs Frans Timmermans, addressed to the House of Representatives on 19 March 2007.<sup>104</sup> It provides for the option of the "minimal treaty". The new document should be "shorter and more technical" as well as serve as a revision of the present treaty base, rather than represent a constitutional document (the term "constitution" associates too easily with "superstate"). Amendments to the treaty should make the Union more democratic and, irrespective of incorporation into the treaty of citizens' initiative and greater role of national parliaments, there is nothing to prevent them from being present in the new treaty as well. Another important issue is clear definition of the scope of competencies between member states and the EU. The document, similarly to the coalition agreement, provides for working on more efficient mechanisms for the subsidiarity principle to be applied. The next step would be to decentralise the decision-making process by reducing the distance between the government and citizens. Such areas as the pension and educational system, social welfare services, culture and health care should still be managed by EU member states. At the same time, Netherlands opts for cooperation at the Union level on energy issues, climate change, asylum and migration issues as well as on combating terrorism and international crime. In these areas, Netherlands opts for greater effectiveness of the decision-making process, as compared against the present treaties. In addition, the document offers strong support for removing the term „constitution" and incorporating in the new treaty the criteria that define EU membership conditions (currently, the so-called Copenhagen criteria). The document leaves the decision whether to hold a referendum on the new treaty with the government.

## Portugal

Portugal will assume the EU presidency in July 2007. Therefore, constitutional treaty matters are high on the foreign affairs agenda of the state. Portugal fears that the issue of institutional reform, which will by no means be resolved before the beginning of its presidency, will adversely affect other problems, important from its standpoint, such as the relationship of the EU with Africa or problems of the Mediterranean. Public debate also centres on how to manage the EU effectively during the presidency and not to neglect Portugal's internal affairs.<sup>105</sup>

Portugal is one of the states that have not ratified the treaty yet. Following the referendums in France and Netherlands, Portugal's Prime Minister decided to suspend the referendum on the subject, originally planned for 9 October 2005. Public opinion surveys indicate that support for TCE remains at the same level – 59% of the society support it.<sup>106</sup> This is only four per cent less than after the referendums in France and Netherlands, when the support figure was at its peak.

<sup>102</sup> Jan Peter Balkenende, Eindhoven, 8.02.2007, "The DutchNews", *Europe needs a simple treaty, says PM*, [www.dutchnews.nl/news/archives/2007/02/europe\\_needs\\_a\\_simple\\_treaty\\_says\\_pm.php](http://www.dutchnews.nl/news/archives/2007/02/europe_needs_a_simple_treaty_says_pm.php) (22.02.2007).

<sup>103</sup> *Coalition agreement between the parliamentary parties of the Christian Democratic Alliance, Labour Party and Christian Union*, 7 February 2007, [/www.government.nl/policy/balkenende4/regeerakkoord/An\\_active\\_international\\_and\\_European\\_role.jsp](http://www.government.nl/policy/balkenende4/regeerakkoord/An_active_international_and_European_role.jsp).

<sup>104</sup> *Kamerbrief inzake EU-verdragswijziging*, [www.minbuza.nl/nl/actueel/brievenparlement,2007/03/Kamerbrief-inzake-EU-verdragswijziging.html](http://www.minbuza.nl/nl/actueel/brievenparlement,2007/03/Kamerbrief-inzake-EU-verdragswijziging.html) (19.03.2007).

<sup>105</sup> L. Amado, *As relações com Fica têm de ultrapassar o paradigma pós-colonial*, "Público" of 9 dezembro 2006. Also L. Amado, *Presidência não deve distrair-nos*, "Diário Económico" of 22 Janeiro 2007.

<sup>106</sup> *Eurobarómetro 66, Opinião Pública Na União Europeia, Outono 2006*, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_pt\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_pt_nat.pdf).

The government, supported by the Socialist Party (45% of seats in the Parliament) makes it clear that it is going to continue its policy of support for the constitutional treaty.<sup>107</sup> They are also convinced that a speedy solution to the problem of institutional reform is necessary, and argue that 2007 will be of paramount importance in this respect. With Portugal's presidency approaching, there are signs of applying the strategy of avoiding clear-cut declarations. This attitude of the government is being criticised by the key opposition, Social Democratic Party (28.8% of seats in the Parliament), which is an ardent follower of TCE and believes that the future document to reform EU should contain as many agreements already made in TCE, as possible.

Already in October 2006, the government representatives were saying that the future treaty, assuming that TCE is not ratified, should not be limited to institutional matters only, as it would be a step back in the European integration process, demonstrating that "national egoisms prevailed over the idea of European integration."<sup>108</sup>

Currently, the Minister for Foreign Affairs Luís Amado argues that the present situation prevents us from determining what will happen with the constitutional treaty. Therefore, we should not speed it up and make final decisions whether to join TCE proponents or opponents. We should not provoke unnecessary expectations as to the document.<sup>109</sup> This is probably the reason why a new date for the referendum in Portugal has not been set yet. The government is waiting for the results of the German presidency, saying that only this will enable any specification as to the future actions on TCE and the institutional reform.<sup>110</sup> Caution appears to be the outcome of joint arrangements between the German and Portuguese presidency, and is rooted in the conviction that the lack of clear-cut declarations of the state to assume the next presidency makes work easier for the German presidency and facilitates reaching an agreement.<sup>111</sup> There are opinions appearing in the press that both states are preparing a plan to call a mini-intergovernmental conference during the Portuguese presidency, to draft a shorter text of the treaty, without the word "constitution", and made up primarily of part I, supplemented with new foreign policy instruments.<sup>112</sup>

The Minister of Foreign Affairs is positive<sup>113</sup> that we should adopt a realistic stance on the treaty and institutional reform, that is we should consider the fact that eighteen states have ratified it and two have rejected it. The future agreement should be the outcome of a consensus of all EU members. Having said that, Amado would agree with the statement that if TCE is not ratified, it should form the basis for any future negotiations, since it is a an outcome of a long and complex process, and a hardly restorable consensus. It is in the interest of Portugal to retain fundamental elements of TCE and not to move away from the state of balance it reaches. The negotiation process as a whole should not be re-opened, because it is too time consuming, and the institutional reform should be closed together with the end of the French presidency. The Minister of Foreign Affairs states, however, that such issues as the final institutional solutions, place for the Charter of Fundamental Rights, shape of specific policies, will depend on the arrangements among all EU members. Undoubtedly, however, appropriate involvement of national parliaments in the EU law-making process should also be ensured.<sup>114</sup>

## Romania

The "reflection period" over the future of TCE is not reflected by political debates in Romania, for a long time dominated by the EU accession-related topics. However, at the academic level, a deeper discussion

<sup>107</sup>  *Lançamento do "Fórum para o Debate Europeu," Intervenção do Primeiro Ministro Engaç José Sócrates, 31.03.2006, p. 6, www.portugal.gov.pt/Portal/PT/Primeiro\_Ministro/Intervencoes/20060331\_PM\_Int\_Forum\_Debate\_Europeu.htm.*

<sup>108</sup> See article of the Secretary of State for EU, Manuel Lobo Antunes, *De novo no centro da Europa*, "Público" of 26 outubro 2006.

<sup>109</sup> Address by the Minister of Foreign Affairs at the Parliament in *Diário da Assembleia da República*, Reunião Plenária de 17 de Janeiro de 2007, I Série, Número 37, p. 14–15.

<sup>110</sup> *Ibidem*, p. 14.

<sup>111</sup> From the beginning of 2007, the applicable rule is triple presidency, currently held by Germany, Portugal and Slovenia. Towards the end of December 2006, the states presented a joint programme for the presidency from the beginning of 2007 to mid-2008.

<sup>112</sup> T. de Sousa, *Uma Presidência de alto risco*, "Público" of 9 dezembro 2006.

<sup>113</sup> L. Amado, *O impasse constitucional e político da Europa é demasiado perigoso*, "Público" of 9 dezembro 2006.

<sup>114</sup> *Diário da Assembleia da República*, p. 19.



on the treaty is present. Until recently, Romanian authorities, although expressing their support for institutional reforms and recovery from the stalemate related to TCE ratification, failed to opt for a specific scenario.<sup>115</sup> In recent months, both representatives of the government, primarily the Prime Minister, the Minister of Foreign Affairs and the President, clearly supported the plans of the German presidency in their addresses and press releases. They refer to reviving, or unlocking the process of TCE ratification, and, at a press conference following his meeting with the German Chancellor Angela Merkel, Prime Minister Calin Popescu-Tariceanu declared himself in favour of the treaty finalisation.<sup>116</sup> At the same time, top state officials reject the method of cherry picking. Leonard Orban, the Romanian Commissioner in the European Commission, emphasises the need to adopt the full document. The support is rooted, as stated by President Traian Băsescu, in the fact that the Union needs a "solid treaty" to act effectively following enlargement, and for its operations to be transparent, and to have the appropriate political legitimacy. Owing to the treaty, the EU will be more democratic and stronger, to meet the challenges of globalisation.<sup>117</sup> However, Romanian authorities claim that the constitutional treaty ratification is only the first stage of reforms. Former Minister of Foreign Affairs Mihai-Răzvan Ungureanu pointed out the need for changes in the Common Agricultural Policy, financial policy, energy sector, or the European Neighbourhood Policy.<sup>118</sup>

Major political parties represented in the government share their position with the government. On the future of the constitutional treaty, dissenting opinions are present. As argued by Mircea Vasilescu, editor at "Dilema Veche", the revival of TCE ratification process is not a good solution, as the process itself is seen as a failure by the society, and it will be difficult for politicians to "sell" the Treaty again. A better option would be to focus on preparing a mini-treaty, based on TCE solutions, that would be regarded by the society as a new, simpler and clearer product. Similarly, Dragoș Negrescu, professor at the Academy of Economic Research and advisor at the EC representation in Romania, names mini-treaty as the most realistic solution, primarily due to the need to respect democratic rules by the EU (respecting the opinion of the French and Dutch). Former chief negotiator Aurel Ciobanu-Dordea supports a new solution, not based on TCE, of minimalist nature (greater efficiency and legitimacy of EU actions).<sup>119</sup>

Irrespective of the selected option, Romanian politicians agree that the majority of TCE provisions that allow effective operation of the EU, also in the international arena, must be implemented, with institutional solutions and CFSP to be followed by others. They support the establishment of the Minister of Foreign Affairs with genuine competencies (including the right of initiative in external affairs, in relation to holding a position of the deputy chairman of the European Commission and presiding over the General Affairs and External Relations Council, GAERC), which do not overlap with the competencies of the permanent chairman of the European Council, and group presidency of the EU sectorial Councils, except GAERC. The preferred solution is a European Commission with the number of commissioners equal to the number of EU members, and Romania is not able to accept a compromise solution being that representatives of the states who do not have commissioners should have some functions at the EP. Romanian authorities also support the granting by TCE of broader competencies to the European Parliament and rising significance of national parliaments, as well as an increase in the number of matters where decisions are made by qualified majority. In terms of the decision making system for the Council, they support the system offered by TCE, rather than the Nice system.<sup>120</sup>

<sup>115</sup> See *EU-25/27 Watch*, No. 4, p. 92–93.

<sup>116</sup> See *Joint press conference by Prime Minister Calin Popescu – Tariceanu and the Federal Chancellor of Germany, Mrs. Angela Merkel in Berlin*, Government of Romania—Press office, 2.11.2006, [www.guv.ro/engleza/presa/afisdoc.php?idpresa=7082&idrubricapresa=&idrubricaprimm=4&idtema=&tip=2&pag=1&dr](http://www.guv.ro/engleza/presa/afisdoc.php?idpresa=7082&idrubricapresa=&idrubricaprimm=4&idtema=&tip=2&pag=1&dr).

<sup>117</sup> See *The President of Romania, Traian Basescu, as Head of State made the first address following accession to the plenary of the European Parliament on the 31 January 2007*, Press Release, 31 January 2007, [www.presidency.ro/?\\_RID=det&tb=date&id=8441&PRID=ag](http://www.presidency.ro/?_RID=det&tb=date&id=8441&PRID=ag).

<sup>118</sup> See *Romania after 1st January 2007: New Realities, New Responsibilities, New Perspectives*. Address of H.E. Mr. Mihai-Răzvan Ungureanu, Minister of Foreign Affairs, Annual Meeting of the Romanian Diplomats, 30 August 2006, [www.mae.ro/index.php?unde=doc&id=10940&idlnk=2&cat=4](http://www.mae.ro/index.php?unde=doc&id=10940&idlnk=2&cat=4).

<sup>119</sup> See *EU-25/27 Watch*, No. 4, p. 93.

<sup>120</sup> See M. Pitu, *National Report Romania*, [in:] Ch. Frank, D. Pyszna-Nigge (eds.), *IGC 2003: Positions of 10 Central and Eastern European Countries on the EU Institutional Reforms. Analytical Survey in the Framework of the CEEC-DEBATE Project*, Louvain-La-Neuve, Brussels, Mai 2004, p. 72–80.

Romanian public opinion clearly supports the constitutional treaty. The Eurobarometer 66 survey of December 2006 indicates that 70% of citizens are in favour, 6% are against, and 24% of respondents don't have an opinion (in June 2006 – 68%, 7% and 24% respectively).<sup>121</sup>

## Slovakia

The ratification of TCE was suspended in Slovakia. During the vote in the Slovak Parliament, held on 11 May 2005, a sweeping majority of deputies voted in favour of it (116 in favour, 27 against). On 14 July 2005, the Slovak Constitutional Court suspended the ratification procedure, as a result of which the president could not sign TCE. The reason was that the Court found it proper to examine a complaint from a group of liberal and conservative activists, who claimed that according to the Slovak constitution (art. 7.1), TCE could be adopted only under the constitutional law on Slovakia's entry into a "state formation with other states", which must be preceded by a referendum.<sup>122</sup> The case is still pending.

Slovakia's representatives declare that the treaty has been ratified.<sup>123</sup> As argued by the government, TCE helps to solve problems that have marred EU for a long time, therefore Slovakia supports actions of the German presidency aimed at fullest-possible approval. Slovakia opposes the "opening" of the TCE text and the "cherry picking" procedure. It participated in the meeting of states calling themselves "friends of the constitutional treaty" (Madrid, 26 January 2007) and stands for active cooperation of TCE proponents. Currently, the top item on the agenda is the pace of work on the document, allowing the "constitution" to be adopted before the European Parliament elections. "If it is not possible to adopt the constitution in its present form, we should adopt anything that ensures the functioning of the EU" – said Deputy Prime Minister for European Affairs Dušan Čaplovič on 5 March 2007 in Brussels.<sup>124</sup> Slovakia declared itself in favour of the reference to TCE in the Berlin Declaration and indication in the declaration of further course that integration will take.

Nearly all Slovak political forces support TCE ratification. In this respect, actions by the government, whose main driving force is the leftist "Smer" party of Prime Minister Robert Fico, meets with full support of coalition groups – Movement for Democratic Slovakia (HZDS) and the Slovak National Party (SNS). Neither HZDS of the former Prime Minister Vladimír Mečiar, nor SNS raise any reservations to TCE provisions. A wavering position is adopted by President Ivan Gašparovič, close to the government coalition, who stands for the continuation of the ratification process, but at the same time argues that the text of TCE should be changed, since it "failed" in referendums in France and Netherlands. Actions of the German presidency receive full support of the opposition Slovak Christian and Democratic Union (SDKÚ). Its leader, Mikuláš Dzurinda, still as the Prime Minister of the centre-right government, signed TCE in Rome and promoted its speedy ratification. Among political powers represented in the Parliament, reservations to TCE were raised only by the conservative Christian and Democratic Movement (KDH). The party, despite being present in Dzurinda's government, opposed TCE ratification. As argued by the conservatives, TCE limits sovereignty, and its ratification requires approval by the referendum (the conservatives primarily attacked incorporation in the treaty document of the Charter of Fundamental Rights).<sup>125</sup> However, KDH is currently weaker (the smallest parliamentary club, infighting for leadership continues) and does not tackle TCE subject, which fails to stir up any strong emotions in the society.

In accordance with the survey carried out in autumn 2006, the majority of Slovak citizens (69%) consider TCE necessary for proper operation of EU institutions, while every fifth respondent (21%) is of the opposite opinion.<sup>126</sup> The majority of the Slovak (positive answers on average by a few percentage points higher than the EU average) are of the opinion that following TCE adoption, the Union would be more democratic, function more effectively and in a more transparent manner, be stronger in the world and have

<sup>121</sup> Data from: *Standard Eurobarometer 66...*; *IEP-Ratifizierungssurvey*, p. 25.

<sup>122</sup> See *EU Constitution ratification halted* [www.euroustava.sk/en/?EU\\_Constitution\\_ratification\\_halted\\_%5B14.07.2005%5D\(14.07.2005\)](http://www.euroustava.sk/en/?EU_Constitution_ratification_halted_%5B14.07.2005%5D(14.07.2005)).

<sup>123</sup> See e.g. *Príhovor O. Algayerovej na konferencii Slovensko a Maďarsko v EÚ: hľadanie spoločných záujmov* [www.foreign.gov.sk](http://www.foreign.gov.sk) (26.02.2007).

<sup>124</sup> *Čaplovič verí, že v Berlínskej deklarácii bude aj zmienka o euroústave*, TASR [www.caplovic.vlada.gov.sk/index.php?ID=3240](http://www.caplovic.vlada.gov.sk/index.php?ID=3240) (05.03.2007).

<sup>125</sup> See e.g. V. Palko, A. Zawisza, *Dlaczego sprzeciwiamy się Karcie*, "Rzeczpospolita" of 11 December 2003.

<sup>126</sup> *Eurobarometer 66. Verejná mienka v Európskej únii. Jeseň 2006*, [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_sk\\_nat.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_sk_nat.pdf).

more social sensitivity. During the year, however, the number of persons who do not agree with an idea that following TCE adoption, the Union would be more competitive economically, rose (from 14 to 21 per cent).

Slovakia remains a close ally of the German presidency. Prime Minister Fico is striving to improve its image, tarnished by the nationalists' (SNS) entry to the government and attempts to support its credibility in the European Left circles (his party's membership on the Party of European Socialists was suspended). Slovakia may support incorporation into the treaty of provisions on the reference to the idea of the social Europe, although we should expect restraint as regards initiatives leading to further economic unification, owing to fears of deteriorating competitiveness of Slovakia in the EU (Fico recently backed out of the declaration of support for the idea of tax harmonisation). The centre-left government, caring for good contacts with the Catholic church, may support efforts for the reference to Christian values in the potential preamble of the treaty document. Slovakia also supports the development of the common energy policy. The Slovak strategy for energy security (drafted for the period until 2030) is to specify opportunities for energy carrier delivery diversification, but the government assumes that Russia will remain the key partner for energy delivery.

## Slovenia

The Lower House of the Slovenian Parliament gave its vehement support for the Treaty establishing a constitution for Europe (TCE) on 1 February 2005, approving its ratification with 79 votes in favour and 4 against, and consent by six out of seven parties represented in the Parliament. Despite this overwhelming support for TCE in the Parliament, opinions emerged that public opinion was not provided with sufficient information on the solutions offered by the treaty, which was linked e.g. with too little time for the information campaign. There is no broad public debate in Slovenia right now on European affairs, except for issues that touch upon everyday lives of the citizens.

Statements of Slovenian politicians, including President Janez Drnovšek and Prime Minister Janez Janša, indicate support for the treaty in its present shape – it is believed that TCE solutions are more advantageous to Slovenia than the Nice package. The politicians share the position that TCE ratification should continue irrespective of obstacles.<sup>127</sup> Slovenia supports the further development of Community institutions and policies (including the common foreign and security policy) and EU deepening. Simultaneously, Slovenia wants to bring the European project closer to the citizens and reduce expenses on the common agricultural policy.<sup>128</sup> The state also shares the position achieved by the European Council that specific decisions as to further steps on TCE should be made in the second half of 2008. The government assures that they will do everything for the ratification process in subsequent EU member states to continue during the Slovenian presidency.

Minister of Foreign Affairs Dimitri Rupel referred to the treaty ratification as a “key step on the road to a European future”. In his opinion, TCE is an appropriate document for Slovenia. He also encourages searching for solutions that would be acceptable to all member states.<sup>129</sup> It seems that Slovenia is ready to accept minor changes to the already ratified text.<sup>130</sup>

## Spain

The Spanish, centre-left government of José Luis Zapatero supports the Constitutional Treaty in its present shape. The results of the consultative referendum held on the issue on 20 January 2005 were positive (with 76.7% of voters in favour of the adoption). Social support for TCE remains very high, at 62%.<sup>131</sup> The constitutional treaty is also supported by the main, centre-right opposition party (Partido Popular).

Together with Luxembourg, Spain is one of the most avid proponents of the document. On the initiative of both states, a meeting of friends of the constitutional treaty was held on 26 January 2007 in Madrid,

<sup>127</sup> Statement by Prime Minister Janez Janša, 24.07.2006, <http://www.kpv.gov.si>.

<sup>128</sup> Press release from the meeting between the President of Slovenia and the Minister of Foreign Affairs of Cyprus, 16.02.2007, <http://www.up-rs.si>.

<sup>129</sup> Press release from the visit of Minister for Foreign Affairs Rupel in Netherlands, 17.05.2006, [/www.mzz.gov.si](http://www.mzz.gov.si).

<sup>130</sup> Press release from the meeting of Ministers of Foreign Affairs of Slovenia and Italy, 10.01.2007, [www.mzz.gov.si](http://www.mzz.gov.si).

<sup>131</sup> *Eurobarómetro 66, Opinión Pública en La Unión Europea, Otoño 2006, Informe Nacional España*, <http://ec.europa.eu>.

attended by states that ratified the document, as well as Ireland and Portugal, which are also in favour of ratification. The goal of the organisers was to demonstrate the view that the starting point for discussion on the EU institutional reform should be TCE.<sup>132</sup>

Based on the report, drafted by the government of Spain on the future of the EU, we could argue that TCE meets Spanish expectations and, in their opinion, is conducive to the European integration process.<sup>133</sup> As a starting point, the Spanish argue that future negotiations should focus on what to do in order for the constitutional treaty to be ratified by all states. Negotiations should be based on the assumption that in the event of any problems, both during the negotiations, or any further ratification, all states should come back to the document ratified by eighteen member states. They agree to modifications to TCE, in order to facilitate agreement of other states to the treaty provisions. However, changes should be minor, just touching up and technical. No agreements made should be deleted, but rather new ones in the area of social policy, immigration and climate change be added.

As seen by the government, losing the agreements already present in the treaty is going to bring disorder to the general agreement negotiated, and disturb the delicate balance of the interests of member states. Approving the constitutional treaty, Spain agreed to the “package” that combines a number of areas that often reach beyond institutional aspects. For instance, it accepted double majority voting system, since a new division of votes in the European Parliament, benefiting Spain, was agreed upon. The Spanish representatives emphasise that they are not interested in, and they will not attempt a revision of the double majority system.<sup>134</sup> They also attach importance to new solutions contained in part III of the document, as they allow the progress of integration in the areas of energy policy, immigration policy, police and judicial cooperation in criminal cases, as well as greater consistency in external actions by the EU.

Rejecting the option limiting the future reform to institutional arrangements, Spain appears to be ready to surrender some sections from part III of TCE provisions, but not the new provisions contained in part III. We could expect that they would agree for them to be included in the new treaty as modifications to the present treaties, assuming that parts I and II TCE were to be retained. The Spanish believe that if re-negotiating led towards limiting the future reforms to institutional affairs, the debate on the population threshold required for the qualified majority, or on the composition of the European Commission, could resurface. The prevalent concept is that of calling a short and clearly mandated intergovernmental conference that would commence the work already before the 2007 holiday period.

## Sweden

This state opted for the parliamentary ratification of the constitutional treaty, without resorting to referendum. In December 2004, the agreement signed by Prime Minister Göran Persson and major parliamentary groups provided that the ratification by the Parliament would be sufficient.<sup>135</sup> Undoubtedly, one of the reasons behind this was the experience of 2002 referendum on joining the Eurozone, ending with a failure (56% of votes against and 42% in favour). The ratification procedure for TCE was suspended until further notice by the government in June 2005, following the arrangements of the European Council summit in Brussels.

As a result of the elections of September 2006, a new government was formed by the coalition Agreement for Sweden (Moderate Party, Liberal Party, Centrist Party and Christian democrats) – signatories to the said agreement of December 2004. In his opening address, Prime Minister Fredrik Reinfeldt did not tackle the topic of TCE, limiting himself to expressing his support for further enlargement and

<sup>132</sup> B. Wojna, *Przyjaciele Traktatu Konstytucyjnego—wnioski ze spotkania w Madrycie*, “Biuletyn” (PISM), No. 6 (420) of 31 January 2007.

<sup>133</sup> *Reflexiones sobre el futuro de la Unión Europea (II). Actualización del Informe del Gobierno al Congreso de los Diputados del 21 de diciembre de 2006*, Secretaría de Estado para la Unión Europea, Ministerio de Asuntos Exteriores y de Cooperación, opublikowany przez Real Instituto Elcano, DT No. 8/2007, 28.02.2007, [www.realinstitutoelcano.org](http://www.realinstitutoelcano.org).

<sup>134</sup> Answering a question in one of his press conferences, Alberto Navarr, the Spanish secretary of state for EU, said that Spain does not expect to cooperate with Poland to defend the Nice voting system. *Alberto Navarro prevé la firma de una nueva versión del Tratado Constitucional*, Agencia EFE, 28.02.2007, [www.hablamosdeeuropa.es](http://www.hablamosdeeuropa.es).

<sup>135</sup> See M. Czaplicki, *Ratyfikacja Traktatu Konstytucyjnego w państwach Unii Europejskiej*, February 2005, [www.isp.org.pl](http://www.isp.org.pl).

commencement of preparatory work for the Swedish presidency in 2009.<sup>136</sup> Circumspect support was expressed for the efforts by the German presidency to put the treaty back on the agenda, the need for changes emphasised, as this is what the Union is waiting for.<sup>137</sup> Minister for European Affairs Cecilia Malmström referred to TCE specifically, underscoring the importance of institutional consolidation and improved decision-making process in the EU, as well as incorporation of the basic rights issue into the text of TCE.<sup>138</sup>

It appears that Swedish decision makers are waiting for a compromise on TCE, declaring their readiness for ratification of the present document on the one hand, while on the other making it dependent on its final shape. Germany's efforts are closely watched, along with the positions of those states, where TCE lost in referendums. There is a growing support in the Swedish society for TCE,<sup>139</sup> but although the last dozen months or so have been devoted to reflection, this failed to provoke a broad public debate on the EU.<sup>140</sup> In any case, it does not seem that the mode of ratification will be changed—holding a referendum seems unlikely, irrespective of the final shape of the treaty on the institutional reform. Swedish position will gradually emerge depending on whether the effort of the German presidency promises success (compromise on TCE and drafting a road map leading to adoption), and together with the approaching Swedish presidency period.

The Swedish could give their positive response to a proposal for a change in the Council's voting system into the system suggested by Poland (a given state's number of votes equal to the square root of its population – Penrose system), since the system was already considered by Sweden.<sup>141</sup> However, it does not seem likely that they do so being in the minority, but only if there is broader support for this concept.

## United Kingdom

Following the rejection of TCE in referendums in France and Netherlands, Tony Blair's government clearly started to distance themselves from the document. During the British presidency, the treaty was treated as an obstacle preventing important economic, social and political reforms. At that time, the British government did not see any possibilities of adopting the treaty in the shape it had.<sup>142</sup> Therefore, they switched over to the waiting mode (we need to wait until June 2007 to see what the German presidency comes up with), delaying the presentation of their full position on the future of the treaty as well as the initiation of public debate on the subject.<sup>143</sup>

The general attitude that could be inferred from statements by Prime Minister Blair, Minister of Foreign Affairs Margaret Beckett, or Minister of European Affairs Geoffrey Hoon, is markedly equivocal. Of fundamental importance is the prospect of change of the Prime Minister, the new one most likely being Gordon Brown. The new government cannot afford to accept the treaty in the shape similar to the present one (with minor changes) at the initial stage of its work, owing to high probability of it being rejected in the referendum (in particular if the changes would be primarily requested by France or Germany), which would rule out the Labour Party's victory in the elections of 2009 or 2010. As a result, the British government may only agree to those changes that do not require approval in a referendum.<sup>144</sup>

<sup>136</sup> Statement of Government Policy presented by the Prime Minister, Mr. Fredrik Reinfeldt, to the Swedish Riksdag on Friday, 6 October 2006, <http://www.sweden.se>.

<sup>137</sup> Statement of Government Policy in the Parliamentary Debate on Foreign Affairs, Wednesday, 14 February 2007. [www.sweden.gov.se](http://www.sweden.gov.se).

<sup>138</sup> Address by Cecilia Malmström, Minister for EU Affairs, annual conference *Why Europe? Possibilities and limits of European integration*, 16 November 2006, Swedish Institute for European Policy Studies (Sieps), [www.sweden.gov.se](http://www.sweden.gov.se).

<sup>139</sup> [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_se\\_exec.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_se_exec.pdf).

<sup>140</sup> Report on the EU debate in Sweden during the period of reflection, 2005–2006, committee for Debate on the EU, [www.eu-debatt.nu](http://www.eu-debatt.nu).

<sup>141</sup> [http://blogs.ft.com/brusselsblog/2007/03/suspect\\_polish\\_.html#comment-63205296](http://blogs.ft.com/brusselsblog/2007/03/suspect_polish_.html#comment-63205296).

<sup>142</sup> See A. Maurer, *Die Ratifikationsverfahren zum EU-Verfassungsvertrag. Wege aus der Krise II*, SWP Diskussionspapier, April 2006, [www.swp-berlin.org/de/common/get\\_document.php?asset\\_id=1838](http://www.swp-berlin.org/de/common/get_document.php?asset_id=1838), p. 84–86.

<sup>143</sup> See P. Świeboda, *Szansa nowego traktatu: sześćdziesiąt procent i rosnące*, Commentary, 18.02.2007, demoseuropa, [www.demoseuropa.eu/upload/editor/demos/File/KOMENTARZE/Szansa...pdf](http://www.demoseuropa.eu/upload/editor/demos/File/KOMENTARZE/Szansa...pdf)

<sup>144</sup> See *Editorial: Mr Brown comes to Brussels*, European Newsletter, The Federal Trust, Autumn 2006, [www.fedtrust.co.uk/admin/uploads/Autumn\\_Newsletter.pdf](http://www.fedtrust.co.uk/admin/uploads/Autumn_Newsletter.pdf), p. 2; P. Webster, *Forget constitution or we veto all plans, Britain tells the EU*, „The Times”, 01.02.2007, <http://business.timesonline.co.uk/tol/business/law/article1308628.ece>.

It follows from the statements by governmental representatives that the position may support moderate those changes to the present treaties that allow effective operation of the Union with 27 members and fail to arouse major controversies (then it could be approved by the Parliament).<sup>145</sup> However, the support for a shorter treaty – the mini-treaty, definitely without the name “constitution” and containing rather uncontroversial solutions, is also possible. The mini-treaty option is supported by Minister Hoon; however, some members of the government are sceptical about this solution, which gives rise to emerging opinions that Brown’s government will support an intermediate solution, between incorporation of changes into the present treaty and the mini-treaty.<sup>146</sup> An ever more significant ambiguity of the British position is revealed by proposals, submitted e.g. by Hoon, for using the existing treaties to introduce the necessary changes – the European arrest warrant is given as an example here. Other areas referred to in this context are energy, migration and employment policies and justice.<sup>147</sup>

There has been a debate going on in 2007 in the British media on the constitutional treaty. Politicians of the Labour Party are presenting the government’s position. The main initiator of the discussion is however the Conservative Party, led by David Cameron, which criticises the government and accuses it of for example attempting to bring the treaty in through the “back door”, in agreement with Chancellor Angela Merkel.<sup>148</sup> The conservatives also present their proposals. Cameron is of the opinion that the EU is functioning properly without a constitutional treaty. He is against adopting this legal act at any price. Cameron refers to the “obsession” of European politicians. He also recommends focusing on solutions to real problems that the EU faces – these are challenges related to globalisation, poverty, climate affairs, fight against terrorism and illegal immigration, etc. Some conservatives support the option of changes to the Nice Treaty.<sup>149</sup> The leader of Liberal Democrats, Menzies Campbell, presents an internally conflicting position – on the one hand he supports reforms in the TCE package, on the other, however, as a result of failed referendums in France and Netherlands, he considers the document as dead.<sup>150</sup>

Since the British government failed to present an overall position on the future of the Constitutional Treaty, it is difficult to infer at the present stage, from the statements by its representatives, its position towards individual institutional reforms. We could only attempt at some forecasting. The new government may agree to such solutions of TCE package as extended majority voting in the Council of the EU (including areas strategic for the UK, such as defence and tax policy, social insurance system), improved coordination in foreign policy (although the British don’t like the date), introduction of permanent chair in the European Council – with his or her own administration, but with limited competencies, and the participation of national parliaments in legislative action at the EU level. If the mini-treaty scenario receives the go-ahead, these solutions could be incorporated into the new document. The British government sees limits to the legal effect of the EU Charter of Fundamental Rights, even if it is part of TCE. As argued by the UK, if the adopted document does have a preamble, it should be as general as possible. Great Britain takes a neutral stance on the citizens’ initiative, proposed in TCE. The British government argues that the subsidiarity and proportionality principles are not properly defined in TCE, but it does not seem that a better definition, acceptable for all Member States, is feasible. The UK government supports a clear division of competencies between national states and the EU, however the division offered by TCE fails to meet expectations of the UK (too many shared competencies). The United Kingdom does not provide a specific date for institutional change implementation, but it would not oppose a speedy implementation of the limited-scope treaty that would incorporate such changes. This stems from the fact that, together with the approaching elections of 2009 and 2010, it will reduce the number of possible options for Brown. According to the British

<sup>145</sup> See *Blair rules out secret deal on the EU treaty*, „Reuters”, 31.01.2007, <http://today.reuters.co.uk>

<sup>146</sup> See *EU leaders plan return of EU Constitution*, „Open Europe Bulletin”, 21 December 2005–12 January 2006, [www.openeurope.org.uk/research/constitutioncomingback.pdf](http://www.openeurope.org.uk/research/constitutioncomingback.pdf), p. 5; *EU-25/27 Watch*, No. 4, p. 96.

<sup>147</sup> See *Written Ministerial Statements*, House of Commons, „Daily Hansard”, 5.12.2006, Column 10WS, [www.publications.parliament.uk/pa/cm200607/cmhansrd/cm061205/wmstext/61205m0001.htm](http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm061205/wmstext/61205m0001.htm)

<sup>148</sup> See D. Cameron, *With reform, Europe can be a force for good*, „Daily Telegraph”, 04.02.2007, [www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2007/02/04/do0402.xml](http://www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2007/02/04/do0402.xml); Ch. Tannock, *Conservatives support further EU enlargement but warn that a new constitution is not needed*, Conservative Party, News, 14.12.2006, [www.conservatives.com/tile.do?def=news.story.page&obj\\_id=134142](http://www.conservatives.com/tile.do?def=news.story.page&obj_id=134142).

<sup>149</sup> See M. Kite, *Cameron fights ‘back door’ EU constitution*, „Sunday Telegraph”, 04.02.2007, [www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/02/04/neu04.xml](http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/02/04/neu04.xml)

<sup>150</sup> See A. Maurer, *op.cit.*, p. 87.

government, reforms in the Community are necessary, but not to the extent that would require a change in its traditionally cautious attitude towards institutional change.<sup>151</sup>

According to Eurobarometer 66 survey of December 2006, 40% of British citizens support the constitutional treaty, 35% oppose this document, while 24% don't have an opinion (in June 2006, the figures were at 42%, 33% and 25% respectively).<sup>152</sup>

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<sup>151</sup> See *Editorial: Mr Brown comes to Brussels*, p. 2; M. Dragsevic, *Great Britain*, [in:] N. Eschke, T. Malick (eds.), *op.cit.*, p. 53-54; Answers to PISM questionnaire, 02.04.2007, author's own records.

<sup>152</sup> Data from: *Standard Eurobarometer 66...*, *loc.cit.*; *IEP-Ratifizierungssurvey*, p. 13-14.

## POSITIONS OF REGIONAL GROUPS

### Benelux

Belgium, Luxembourg and Netherlands have a long tradition of uniform, or similar positions on European matters. It was no different with the Treaty establishing a Constitution for Europe, as evidenced by the adoption of joint memoranda on institutional reforms. A turning point was the lost referendum in Netherlands. The outcome is that fundamental differences have emerged as regards the attitude to TCE, with Belgium and Luxembourg on one end, and Netherlands on the other.

The Dutch position, as stated by its Prime Minister Jan Peter Balkenende, boils down to the claim that the EU does not need a European constitution, but only changes to the present Treaties, if anything. On the other hand, Belgium and Luxembourg argue that the treaty is necessary and the already started ratification process should continue. In addition, both states have convergent opinions on the date of TCE adoption, which is before the elections to the European Parliament, planned for 2009. In comparison to the more flexible Luxembourg, Belgium's position appears to accept a smaller margin of possible modifications if changes to the Treaty are actually to be made.

### Visegrad Group

In the pre-accession period, states of the V4 declared their intent to cooperate on the institutional future of the EU. Following the EU summit in Nice, V4 Prime Ministers concluded with satisfaction that "states of the Central-European region will have appropriate representation in the EU Council."<sup>153</sup> Already in 2003, the V4 wanted to work out a common view on the emerging constitutional treaty. Soon, however, it turned out that certain differences on draft TCE were found to exist, related mainly to the proposed voting system for the EU Council. The Czech Republic, Slovakia and Hungary accepted the so-called double majority system, whereas Poland defended the Nice system, which contributed to the crisis in Visegrad cooperation.

Following their accession, Poland, the Czech Republic, Slovakia and Hungary declared their intent to use the V4 as a forum for consultations and arrangements on common interests in the EU.<sup>154</sup> The then leaders of V4 states also recognised that the adoption of TCE would be the best way for the Union to be able to face internal and global challenges in the future. Following the rejection of TCE in France and Netherlands, V4 Prime Ministers, at the V4 summit in Kazimierz Dolny (10 June 2005), expressed their support for the idea of continued ratification.<sup>155</sup> This, however, had no positive impact on the credibility of the grouping, as the government support for TCE in two states, namely Poland and the Czech Republic, was decisively challenged by the opposition, soon to take power. No TCE ratification was done in those states, and the ratification was stopped before completion in Slovakia.

Currently, Poland and the Czech Republic are collaborating closely with each other, as their attitudes towards the institutional shape of the EU are similar, and they put bilateral consultations on the subject ahead of cooperation in the V4 format. In turn, for Slovakia and Hungary, seeking ways to improve their bilateral relations, the community of positions on TCE has also become an area of cooperation.<sup>156</sup> Joint actions for the approval of TCE provisions represent an opportunity for the governments of Slovakia and Hungary, whose reputations have been severely tarnished in recent months, to strengthen their position in the EU. This is why they might be using the "recognised" V4 forum to present their joint position.<sup>157</sup>

A major dissonance within the V4 does not mean that the grouping cannot jointly attempt to promote specific, common interests during the discussion on the EU reform. Those include ensuring better conditions for strengthening the Eastern dimension of the European Neighbourhood Policy, and opening the EU to new members, as well as support for the building of the common EU energy policy, reiterated by

<sup>153</sup> M. Szczepaniak, *Odnowienie wyszehradzkiej współpracy politycznej*, [in:] B. Fijałkowska, A. Żukowski (eds.) *Unifikacja i różnicowanie się współczesnej Europy*, Warszawa 2002, p. 200.

<sup>154</sup> *Guidelines on the future areas of Visegrad co-operation* (12 May 2004) [www.visegradgroup.eu](http://www.visegradgroup.eu)

<sup>155</sup> *Joint Declaration of the Prime Minister of the V4 countries on the EU*, Kazimierz Dolny, 10.06.2005, [www.visegradgroup.eu](http://www.visegradgroup.eu).

<sup>156</sup> See e.g. *Príhovor O. Algayerovej na konferencii Slovensko a Maďarsko v EÚ: hľadanie spoločných záujmov* 26.02.2007, [www.foreign.gov.sk](http://www.foreign.gov.sk).

<sup>157</sup> Meeting of Prime Ministers of Slovakia and Hungary is to take place in June at the latest, already before V4 Summit.



the V4 in January 2007.<sup>158</sup> The Czech Republic has already suggested a joint (together with its V4 partners) formulation of priorities for its presidency in the EU, falling on the second half of 2009.<sup>159</sup>

### **Baltic States: Lithuania, Latvia, Estonia**

The positions of three Baltic states on the EU constitutional treaty are very similar. Lithuania, Latvia and Estonia support its quickest-possible adoption with as few changes as possible, without shaking the foundations of the agreement. However, owing to a very insignificant potential of the region (in terms of population, territory, economy), it should be in the interest of those states to strengthen the Community institutions and EU unity, rather than support the positions of large national states, or promote concepts of integration circles within the Community. An important factor here is the satisfaction of Lithuanian, Latvian and Estonian societies with their membership in the EU. Therefore, the contents of TCE treaty fail to arouse any major controversies. These states are also relying on the assumption that the failure to adopt the treaty and operation of the EU on the basis of the Nice Treaty may materially weaken the Community. Political resentment in many capitals of Western Europe in the event that the institutional reform of the EU, provided for in the treaty, falls through, would impede the promotion of proposals important for those states, such as e.g. energy solidarity, strengthening the Eastern dimension of the EU, or further enlargement of the EU to the east. Recurring assurances by the Baltic states that they support the effort of the German presidency, striving to find a way out of the constitutional crisis, and that they stand for “retaining the contents” of TCE, combined with the lack of major public debates on the advantages and disadvantages of the treaty, indicate that the elites in these states have adopted a strategy of waiting for the end of the debate.

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<sup>158</sup> *Joint Political Statement of the Visegrad Group on the Strengthening of the European Neighbourhood Policy* (22.01.2007)

[http://www.rokovania.sk/appl/material.nsf/0/BF7A860732DF6128C12572720038DC7A/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/BF7A860732DF6128C12572720038DC7A/$FILE/Zdroj.html)

<sup>159</sup> *Ěsko chce priority pøedsednictví formulovat v rámci V4.* ĚTK, 29.03.2007

## POSITIONS OF SOME NON-MEMBERS OF THE EU

### Switzerland

Switzerland, as a non-member of the EU, is not directly involved in the institutional reform of the EU. However, the topic of the constitutional treaty and further development of European integration arouses some interest, as the question of the integration of the country with the European Union remains unresolved.

In 1992, Switzerland submitted an official application for membership.<sup>160</sup> On the same year, a decision was taken to put it on hold. The referendum on the accession to the European Economic Area, held on the same year, brought a negative result, which was interpreted by the government as a protest against integration with the EU. The application for accession was not, however, withdrawn from the EU, and the question remains open, although the prospects for membership exist in the longer, rather than shorter run. Opinion polls indicate that 54% of the society are against, or rather against, while 37% are rather in favour.<sup>161</sup> Simultaneously, results of the referendums on European policies, held after 1992, indicated that the society did not want the application for membership to be withdrawn (1997), but also opposed any immediate start of accession negotiations (2001).

Moderation in respect of the integration results primarily from fears of reduced significance of direct democracy mechanism, characteristic of Switzerland. Therefore, proponents of European integration perceive a potential entry into effect of the constitutional treaty as a step that may act to the benefit of Switzerland's membership in the EU. Minister of Foreign Affairs Micheline Calmy-Rey, in her statement on the future of the treaty, expressed her satisfaction at the evolution of the EU towards greater transparency, democracy, and federation.<sup>162</sup> She also said that the document contains institutional solutions, such as the citizens' initiative, the system of double majority of states and citizens, or the subsidiarity principle, that bring Switzerland closer to the EU and the related result may be that the Swiss will be more likely to opt for the membership concept. In the face of the French and Dutch "no", this argument is hardly presented now, and the proponents of integration, notably the Swiss Socialist Party (26% of seats in the parliament), argue that the membership is necessary, as the attitude that is an outcome of the many sectorial, bilateral agreements between the EU and Switzerland, has now been exhausted.<sup>163</sup>

Traditionally, the right-wing Centre Democratic Union (27.5% of seats in the parliament), enjoying the largest support of the society since 1999, is against the EU membership.<sup>164</sup> The party stands for deeper, sectorial bilateral relations, as well as for withdrawing the membership application, since the EU has evolved into a super-state of sorts, that imposes political union and common foreign, internal security and monetary policy on its members. The EU enlargement policy is also criticised, notably the vision of Turkey's membership. As argued by the Centre Democratic Union, the constitutional treaty is only another document that evidences that the EU evolves in the wrong direction.

A similar position on the EU integration, although coming from other grounds, is represented by the Radical Democratic Party (Parti radical-démocratique Suisse, 18% of seats in the parliament). In its motion for the withdrawal of the application, presented in October 2005, one of its members, Bühner Gerold, argued that the EU in the present state cannot be reconciled with the policy of neutrality, federal system and direct

<sup>160</sup> In 1992, a new stage began in the relations between the EU and Switzerland, previously based on the bilateral mode. From that year, both parties have signed fifteen agreements (seven in 1999 and eight in 2004). This was accompanied by a further deepening of economic links. More on the issue in *Suisse-Union Européenne: un partenariat privilégié, Dossier d'information, Mission suisse auprès des Communautés européennes, update of 8 January 2007*, [www.eda.admin.ch/etc/medialib/downloads/edazen/topics/intorg/eu.Par.0027.File.tmp/dc\\_070108\\_UE-CHPress\\_fr.pdf](http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/intorg/eu.Par.0027.File.tmp/dc_070108_UE-CHPress_fr.pdf).

<sup>161</sup> At the same time, the polls indicate that approximately 31% of the society sees more drawbacks in the integration with the EU, approx. 29% see more benefits, while 34% argue that benefits and drawbacks balance out, and 6% don't have an opinion. Data based on Claude Longchamp, *Offen auf die Zukunft Zugehen. Hauptergebnisse aus dem Neuesten Bericht zum Europa-Barometer Schweiz*, Forschung für Politik, Kommunikation und Gesellschaft, Dezember 2005, <http://www.polittrends.ch/pub/europa-122005.pdf>.

<sup>162</sup> *Le Traité constitutionnel, vu de la Suisse*, allocution de la Conseillère fédérale Madame Micheline Calmy-Rey, Cheffe du Département fédéral des Affaires étrangères, Conférence publique, Université de Genève, le 5 mars 2005, [www.eda.admin.ch/etc/medialib/downloads/edazen/dfa/head/speech.Par.0116.File.tmp/F-050305.pdf](http://www.eda.admin.ch/etc/medialib/downloads/edazen/dfa/head/speech.Par.0116.File.tmp/F-050305.pdf).

<sup>163</sup> *Nouvelle plate-forme européenne*, approuvé le 26 novembre 2005 lors de l'AD à Berne et le 4 mars 2006 lors de l'AD de Näfels, [http://al.sp-ps.ch/data/Pospap-f/2006-07-17\\_Europa-Plattform-f.pdf](http://al.sp-ps.ch/data/Pospap-f/2006-07-17_Europa-Plattform-f.pdf).

<sup>164</sup> *Plate-forme électorale 2007-2013*, L'Union démocratique du centre p. 16–21, [www.udc.ch/file/wahlplattform07-11-f.pdf](http://www.udc.ch/file/wahlplattform07-11-f.pdf).

democracy that Switzerland has.<sup>165</sup> He also pointed out that the membership will be possible only when "serious reforms" to the EU institutional system are implemented.

We could expect that the debate on Switzerland's integration, and on the institutional reform of the EU, will come back in the second half of 2007. For that time, the government has planned to submit a report on the consequences of a potential membership of Switzerland in the EU, considering in particular the federal system, direct democracy, institutions, as well as the principle of neutrality, monetary, fiscal, agricultural and security policy.

## Norway

The question of its membership in the European Communities and the Union has been put to a vote in Norway twice: in the referendums of 1972 and 1994. In both cases, citizens rejected the membership: in 1972, "yes" votes accounted for 46.5%, while "no" votes for 53.3%. In 1994, the figures were 43.1% and 52.2% respectively.<sup>166</sup>

A legal instrument that links Norway with the EU is the Agreement on the European Economic Area (EEA) of 2 May 1992 (effective from 1 January 1994).<sup>167</sup> On the basis of the agreement, Norway and other EEA member states participate in the EU internal market, excluding customs union, common trade policy of the EU towards third states, fisheries and agricultural policy.<sup>168</sup> Norway is also a member to programmes on culture, scientific research and cooperation on regional policy and education.

Norwegian politicians clearly declare that Norway should be an active and constructive partner for European cooperation,<sup>169</sup> although there is no agreement in the society as to the potential membership in the EU, with a division into proponents and opponents among political parties being of permanent nature. Following the elections of October 2005 and the formation of the government for the next term by the re-elected Prime Minister Jens Stoltenberg, he declared that relations between the EU and Norway would have solid foundations. He also announced that he would defend national interests wherever they clash with the principles of the common market, and added that the government would not apply for the membership.<sup>170</sup>

The question of the Constitutional Treaty featured only marginally in statements by prominent politicians, as a reference to the EU reflection period.<sup>171</sup> The discussion would be much more lively if it accompanied Norway's efforts for membership, while in the present state of affairs, it does not represent a core of the discussion on European matters in the public debate.

<sup>165</sup> Motion 05.3548, *Retrait de la demande d'adhésion à l'UE déposé par Bührer Gerold*, 5 octobre 2005, [http://search.parlament.ch/f/cv-geschaefte?gesch\\_id=20053548](http://search.parlament.ch/f/cv-geschaefte?gesch_id=20053548).

<sup>166</sup> [www.eu-norway.org/eu/news/History.htm](http://www.eu-norway.org/eu/news/History.htm).

<sup>167</sup> See legal acts that regulate relations with EOG states, at: [www.mps.gov.pl](http://www.mps.gov.pl).

<sup>168</sup> [www.amb-norwegia.pl/policy/europe/policy/policy.htm](http://www.amb-norwegia.pl/policy/europe/policy/policy.htm).

<sup>169</sup> See [www.eu-norway.org/eu/action+plan/actionplan.htm](http://www.eu-norway.org/eu/action+plan/actionplan.htm).

<sup>170</sup> The international policy of the new Norwegian government, at: [www.eu-norway.org](http://www.eu-norway.org).

<sup>171</sup> See e.g. *The enlarging EU – challenges and opportunities for Norway*, Speech by Minister of Foreign Affairs Mr Jonas Gahr Støre, Europe Conference, Oslo 2 February 2006, <http://www.regjeringen.no>.

## Annex 1

### TCE ratification status in 26 Member States

State	YES /NO	Procedure/Dates	Remarks
Austria	YES	On 11 May 2005, the Austrian National Council approved the EU Constitutional Treaty by 182 votes (1 vote against). Consent by the Federal Council was granted on 25 May 2005. 59 members voted in favour of the Treaty, while 3 against.	Barbara Rosenkranz of the Freedom Party of Austria (FPÖ) was against TCE in the National Council – owing to no approval to the Treaty by referendum. Two FPÖ politicians and one member of the Union for the Future of Austria (BZÖ) opposed it in the Federal Council, mainly due to the lack of referendum.
Belgium	YES	The Belgian Senate approved TCE on 28 April 2005 (54 votes in favour, 9 against, 1 abstention). The House of Representatives did so on 19 May 2005 (118 votes in favour, 1 abstention). Regional legislative bodies gave their consent to TCE on 8 February 2006.	Most of the parties supported TCE. An exception was the extreme right-wing <i>Vlaams Belang</i> , which accused the government of the lack of public debate.
Bulgaria	YES	Bulgaria ratified the EU Constitutional treaty together with the Accession Treaty in the Parliament on 11 May 2005 (231 votes in favour, 1 against, 2 abstentions).	All parties represented in the parliament supported TCE at that time, opting for ratification of the accession treaty.
Cyprus	YES	The Parliament of the Republic of Cyprus gave the consent to ratification of the Constitutional Treaty after two days of discussion on 30 June 2005. 30 deputies supported TCE, 19 were against it, one person abstained.	The Treaty was supported by the second-largest coalition party, namely the conservative Democratic Party (DIKO), and Social Democratic Movement (KISOS), with TCE being treated as a document on the path to political integration. Against it were socialist groupings – the Progressive Party of Working People (AKEL), the most widely represented party in the then parliament, forming part of the ruling coalition. Reasons for this opposition were focus of TCE on economic affairs at the expense of social issues, putting interests of the big business ahead of interests of labourers and militarisation of the Union. Representative of the Green Party George Perdikis objected due to the lack of referendum.
Czech Republic	NO	The Czech Republic planned to approve TCE by referendum (the government opted for June 2006, the opposition ODS wanted to hold it as early as in 2005), but negative results of the vote in France and Netherlands decided on the suspension of the ratification process until further notice.	The ruling coalition, composed of social democrats, Christian democrats and liberals, supported TEC, while the right-wing Civic Democratic Party (currently the ruling party), communists and President Václav Klaus, who sees TCE as a document that excessively limits state sovereignty. In August 2005, 40% of citizens objected to TCE, while only 25% supported it.
Denmark	NO	Denmark planned to approve TCE by referendum on 27 September 2005, but following negative results of the vote in France and Netherlands decided to suspend the ratification process.	TCE was supported by the government and the opposition, social democratic SDP, as well as by the eurosceptical SLP, following an agreement with the government, guaranteeing the retention of the opt-out mechanism. Eurosceptical <i>Junemovement</i> , a left-wing <i>Alliance</i> party as well as the Danish People's Party were against the Treaty.  In June 2005, results of public opinion surveys were very divergent. EU Observer published a poll, according to which 30.8% of Danish citizens supported TCE, 39.5% were against it (29.7% still undecided). Eurobarometer survey indicated that 48% of Danish citizens supported TCE, 37% were against it (undecided – 15%).
Estonia	YES	The Estonian Parliament approved TCE on 9 May 2006, by 73 votes in favour and one against.	Only fringe political forces were against TCE.

Finland	YES	The Finnish parliament planned to approve TCE at the turn of 2006, however the ratification procedure was suspended following the referendums in France and Netherlands. It was resumed in March 2006. On 5 December 2006, the parliament approved TCE by 125 votes to 39 (4 abstentions).	Central-leftist government of Prime Minister Vanhanen, as well as conservatives and the Green, opted for TCE. The treaty is being criticised by the leftist <i>Allianz</i> for shortcomings in terms of social issues.
France	NO	The Congress (National Assembly and Senate) approved TCE on 28 February 2005 (730 votes in favour, 66 against and 69 abstentions). The treaty was however rejected by the referendum held on 29 May 2005 (45.13% of citizens in favour, 54.87% against the adoption of TCE).	The Union for a Popular Movement (UMP), the Union for French Democracy (UDF), as well the majority of socialists supported TCE. The National Front was against it, citing threat to sovereignty, followed by communists and some socialists, who believed TCE to be too liberal and militarising the EU .
Germany	?	The German Bundestag approved TCE on 12 May 2005, by 568 votes to 23 (2 abstentions). Bundesrat gave its consent to the Treaty on 27 May 2005 (66 votes in favour and 3 abstentions). However, an appropriate legal act has not been signed by the president, which means that the ratification procedure is still pending.	TCE was not supported by the deputies of the left-wing PDS during the Bundestag vote (owing to an excessively liberal and militarist contents, and rather undemocratic character) and a group of Christian democrats (too far-reaching interference with the competencies of Member States). Support for TCE by German states was not an easy task. Ultimately, only Mecklemburg-Vorpommern abstained from voting, since there was not agreement between the ruling parties in the State, SPD and PDS. President Horst Köhler has not ratified the Treaty yet, owing to a motion from CSU's deputy, Peter Gauweiler, to the Constitutional Court, for examining the Treaty's compliance with the German constitution.
Greece	YES	The Greek parliament approved TCE on 19 April 2005. 268 deputies supported the Treaty, 17 were against it and 15 abstained from voting.	New Democracy, the right-wing party in power, as well as the opposition PASOK party supported TCE. The Left Wing, the Coalition for Progress Forces ( <i>Synaspismos</i> ) and the Communist Party of Unity rejected the Treaty.
Hungary	YES	The parliament approved TCE on 20 December 2004 by 304 votes to 9 (8 abstentions). 64 deputies were absent.	All political parties represented in the parliament supported TCE.
Ireland	NO	Obligatory referendum on TCE was to be held towards the end of 2005. In May 2005, the draft amendment to the Constitution of Ireland was submitted, in order to align it with TCE. However, following the referendums in France and Netherlands, the ratification was stopped.	The Irish government, shortly after the referendums in France and Netherlands, issued a White Paper to TCE, expressing their support for this legal act. Most of the parties ( <i>Fianna Fail</i> , <i>Fine Gael</i> , the Green, Labour Party, Progressive Democrats, Socialist Party) declared themselves in favour of the Treaty, while <i>Sinn Fein</i> was against it, seeing TCE as an act that excessively limits sovereignty and leads to the establishment of a "superstate". In June 2005, 30% of citizens supported TCE, while 35% of respondents were against it.
Italy	YES	The House of Deputies approved TCE on 25 January, by 436 votes to 28 (5 abstentions). The Senate approved TCE on 6 April 2005. The application was supported by 217 persons, while 16 were against it.	Most of the parties supported TCE. The Northern League And the Green were against it, the reason being the lack of referendum. The Communist Refoundation Party (PRC) also opposed the treaty, owing to its too liberal nature, and insufficient guarantees for social rights.
Latvia	YES	The Latvian parliament approved TCE on 2 June 2005. 71 deputies opted for the Treaty, five were against it, and six abstained from voting.	A sweeping majority of political parties supported TCE. Only a handful of deputies from the pro-Russian, post-communist Latvian Socialist Party voted against it.
Lithuania	YES	The Lithuanian parliament approved TCE on 11 November 2004 by 84 votes to 4 (3 persons abstained from voting).	Lithuania was the first state to ratify TCE. Only fringe political groupings were against the Treaty.

Luxembourg	YES	TCE was approved in a consultative referendum on 10 July 2005, with 56.52% of votes in favour and 43.48% against. The parliament adopted the first legal act concerning the Treaty on 28 June 2005 (all present deputies, that is 55, were in favour, 5 did not vote). The final approval of TCE by the parliament took place on 25 October 2005 (by 57 votes to 1).	The majority of both ruling and opposition parties supported TCE. Only pacifist organisations, or antiglobalists, opposed its adoption. A populist Action Committee for Democracy and Fair Pension (ARD) remained sceptical (deputies from this party did not take part in the June vote), but supported TCE, respecting the decision of Luxembourgnians, while the extreme left and the Green still challenged it, arguing that the Treaty was dead in any case, following the referendums in France and Netherlands.
Malta	YES	The Maltese parliament approved TCE unanimously (by 66 votes) on 6 July 2005.	The opposition, eurosceptical Maltese Labour Party (MLP), remained against TCE almost until the end, considering its provision as conflicting the principles of e.g. sovereignty and neutrality. However, following a discussion within the party at its general convention of 2 July 2005, socialdemocrats, by the majority of 85% of votes, decided to support TCE.
Netherlands	NO	Citizens rejected TCE on 1 June 2005 in a consultative referendum, 38.4% voted in favour of the Treaty, while 61.6% against it. As a result, the parliament did not decide on continued ratification.	Most of the parties – the Labour Party, Socialist Party, People's Party For Freedom and Democracy, Green Left, Democrats 66 were supportive of TCE. Some opposition members, such as Christian democrats or Pim Fortuyn's List, were against it.
Portugal	NO	Approval of TCE by referendum was originally scheduled for April 2005, then postponed until 9 October 2005, and finally suspended after the referendums in France and Netherlands.	Both the ruling Socialist Party (PS) and the opposition Socialdemocratic Party (PSD) support TCE. Parties that oppose it are the extreme left Portugal's Communist Party (PCP), and the Leftist Bloc (BE). Opinion polls indicate that the support for TCE remains at a relatively high level. Towards the end of 2006, 59% of the society supported it. This is by 4 percentage points less than after the referendums in France and Netherlands, when the support for TCE was at its peak.
Romania	YES	Romania ratified the EU Constitutional Treaty together with the unanimous approval of the Accession Treaty by two parliamentary houses on 17 May 2005.	All parties represented in the parliament at that time supported TCE, by supporting the ratification of the accession treaty.
Slovakia	?	The Slovak parliament approved TCE on 11 May 2005, with 116 deputies in favour of the Treaty, 27 against and 4 abstentions. On 14 July 2005, the Constitutional Court suspended the ratification procedure. Pending examination of a constitutional complaint, the president cannot ratify TCE.	Complaint filed by 13 conservative and liberal activists was based on the conviction that, under the Constitution, the adoption of TCE should be preceded by a referendum, as it means entering "a state formation with other states". Against TCE was the co-ruling Christian-Democratic Movement (currently in opposition), arguing that TCE weakened the position of small states and limited their sovereignty, in particular in its moral and ethical dimension, as it failed to have a reference to the Christian roots of Europe. The opposition, communist party (currently out of parliament) was also against TCE.
Slovenia	YES	The Slovenian parliament approved TCE on 1 February 2005 by 79 votes to 4 (7 abstentions).	A vast majority of political parties opted for TCE at the beginning of 2005, which was clearly reflected by the result of the parliamentary vote.
Spain	YES	In the referendum of 20 February 2005, the majority of citizens (76.73%) supported the adoption of TCE, while 17.24% were against it. After the referendum, on 28 April 2005, the Treaty was approved by the Congress (by 311 votes to 19) and on 18 May 2005 by the Senate (225 votes to 6).	The Socialist Party (PSOE) and the People's Party (PP) supported TCE; its adoption was challenged by the United Left and national, Catalanian and Basque parties. The reason for their objections were: too little focus on social affairs and the establishment of the Europe of states rather than the Europe of nations, respectively.

Sweden	NO	In May 2005, the Swedish government submitted to the parliament a draft Ratification Law, which was to be adopted in December 2005. However, the government suspended the procedure following the referendums in France and Netherlands.	Socialdemocratic Labour Party, Centre Party and liberals supported TCE in 2005. The eurosceptical <i>Junilistan</i> and the Left And Green Parties, that demanded referendum, opposed the Treaty. Their reason was that TCE stipulated the establishment of a "superstate" and fears that the Swedish social model may be destroyed.
United Kingdom	NO	The United Kingdom planned to approve TCE by referendum at the beginning of 2006. However, following negative results in the French and Dutch referendums, the UK decided on 6 June 2005 to suspend the ratification process until further notice. The majority of members of the House of Commons supported the Treaty in a vote of 9 February 2005 (by 34 votes to 130).	TCE was supported at that time by the Labour Party (with some exceptions) and Liberal Democrats, while the Conservative Party (with some exceptions) and smaller parties, not represented in the parliament, were against it.

## Annex 2: Analytical Questionnaire

Leszek Jesień, January 2007

### Questions on the positions of individual EU member states as to the contents and future of the constitutional treaty and EU institutional reform

1. Should TCE ratification continue in the states that haven't ratified it yet?
2. After the failed referendums in France and Netherlands, which path is the most proper one to follow:
  - a. Continued ratification, hoping for repeated attempts at TCE ratification in Netherlands and France;
  - b. Selection of TCE elements, formulation of the new treaty and submitting it for the new ratification process;
  - c. Abandoning TCE and beginning the constitutional reform anew;
  - d. Abandoning TCE and incorporation of some elements of institutional reform with the help of new instruments (inter-institutional agreements, accession treaties for new states, etc.)
3. If TCE fails, will it be proper to begin negotiations before the institutional reform, hoping for the formulation of a new, comprehensive treaty?
4. Is it appropriate to retain the Charter of Fundamental Rights as a legally binding document?
5. Is it appropriate for the act containing provisions on the constitutional reform to have a preamble?
  - a. Should the preamble meet certain political criteria? If yes, what are they?
  - b. What should the preamble contain, if it is necessary at all?
6. Considering that negotiations on TCE contents begin anew:
  - a. Is it appropriate to open the institutional package again?
  - b. Is it appropriate to open negotiations on the shape of individual EU institutions?
  - c. How big should the European Commission be? Who (what institution) should it be responsible to?
  - d. Should the method for measuring the influence of member states in the EU Council be defined again? How?
  - e. Should the method for measuring the impact of member states in the European Parliament be defined again? How?
  - f. How to recreate the institutional balance in the EU, among the Council, Parliament and Commission?
7. What is your attitude today towards the institution of the EU Minister of Foreign Affairs?
  - a. Should the EU Minister of Foreign Affairs be responsible to the EU Council, the Commission, or both?
8. What is your attitude today towards the institution of the permanent chairman of the European Council?
  - a. Should the chairman of the European Council have his/her own administrative centre?
  - b. What competencies should such a person have?
9. Is the change of names, from the traditional "directives", "regulations", etc. into "European Laws, European framework Laws, European regulations, European decisions, recommendations and opinion" appropriate?
10. Is the citizens' legislative initiative (at least one million citizens for various member states) an appropriate formula to implement direct democracy in the EU?
11. Is it appropriate for the Union to define its political symbols: currency, flag, anthem, motto, day?
12. Have the subsidiarity and proportionality principles been appropriately specified in TCE? If not, how would you amend or supplement them?
13. Is the division of competencies in the EU into exclusive, shared and complementary appropriate?
14. Is it appropriate to have the co-decision procedure in place for secondary law-making in the EU?
15. From when are the institutional changes in the EU necessary/ when should they become effective?
16. In the present state, does the EU function improperly, or disappointingly enough for institutional reform to be required?