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National Politics and European Integration: From the Constitution to the Lisbon Treaty (book edited by Maurizio Carbone for Edward Elgar, Cheltenham/Northampton, 2010)

**Poland: Domestic Discord Makes for a Problematic Partner**

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## **1. Background – conflicting Polish attitudes to Europe**

Popular sentiments about EU membership prior to accession varied significantly in the post-communist countries of Central and Eastern Europe, but it was Poland that saw the greatest increase in Eurosceptic attitudes in the run-up to accession and the most dramatic rise in Eurosceptic forces in pre-accession elections (Lewis 2005, pp.184-6). The representation of Eurosceptic parties further strengthened in the 2005 elections, although EU membership in 2004 was warmly embraced by the majority of Poles and approval levels continued to rise in following years. The broad contrast between a Eurosceptic government and an increasingly pro-EU electorate persisted through 2007 as the Reform Treaty was brought back on to the agenda and lasted until the election held in October, concurrent with the Lisbon summit at which the Treaty was adopted. Throughout this period public opinion on the EU was generally at odds with the preferences of the government on the Reform (later Lisbon) Treaty and major features of the way it pursued the national interest. In October, on a higher than average turnout, the government suffered an electoral defeat and a more cooperative government was installed. This, however, was not the end of domestic tensions over the Treaty as the president continued to pursue an obstructive strategy in completing the process of ratification, although the eventual conclusion did not seem to be in much doubt.

In this chapter we examine the preferences of successive governments with regard to the Treaty of Lisbon and their relation to diverse domestic actors and major characteristics of Polish political life. If one established understanding of national preferences is that of an ‘ordered and weighted set of values placed on future substantive outcomes’ (Moravcsik 1998, p.24), we argue here that it is also necessary to ask how well ordered such values and how stable the weightings placed on them in a specific national context actually are. In Poland features deriving from historical legacy, political culture, and characteristics and levels of institutionalization of the post-communist regime are also likely to play an important part. Poland is a prime example of a context in which a national policy has developed which is highly sensitive to the country’s political culture and historical legacy (Dimitrakopoulos and Kassim 2004, p.251). We therefore examine the part these factors have played in preference formation with regard to Poland’s recently acquired EU membership and perceptions of the country’s role within it. In the rest of this section we outline the basic features of Poland’s political system and the character of its major actors. In the sections that follow we examine how national leaders responded to the reform initiative launched under the German presidency in 2007 and how government preferences related to domestic pressures, following this with an

analysis of how processes surrounding the collapse of the government and a premature election related to the summit of October 2007 and the conclusion of the Treaty.

Amongst the key characteristics of post-communist political life in Poland have been high levels of electoral volatility and party system volatility. A Solidarity-based coalition governed between 1997 and 2001 but suffered from extensive internal conflict and lost ignominiously in 2001, gaining no representation at all in the next parliament. Against this background the SLD (Democratic Left Alliance), the apparently successfully reformed successor to the former ruling party, scored a major victory but soon encountered similar problems, compounded by wide-spread perceptions of corruption on the part of former communists. As popular support plummeted and the party fell apart its leader, Leszek Miller, held on until Poland's accession to the EU in 2004 but resigned the day after. This was something of a paradox as, while all major parties had been broadly in favour of Poland joining the EU, the SLD had been particularly enthusiastic.

In the broader context of accession, the issue of the constitutional treaty was ill defined in Poland and closely packaged with the overall pursuit of EU membership as the main priority. Constitution building and the reform of existing structures were hardly likely to be a major concern for any country whose primary objective was to get into the Union in the first place (Gwiazda 2006, p.183). Nevertheless, the strong voting weight awarded to Poland (along with Spain) in the Treaty of Nice was regarded by all major political forces as a considerable national advantage and the country's clear 'vital issue' in this context (Hug and König 2006, pp.263-5). The dramatic slogan 'Nice or death' was coined by centre-right representative Jan Rokita of PO (Civic Platform) but used by many mainstream politicians (not excluding Miller) who hoped to tap the strong national sentiments of the great majority of Poles. These stemmed from the country's conflict-ridden and often tragic history, the country having disappeared from the map of Europe in the nineteenth century, suffered invasion and occupation by both Nazi and Soviet forces in 1939 and then experienced Russian-backed communist rule until 1989. The national spirit was further sustained by a strong attachment to the Catholic Church, which linked it closely with the countries of Western Europe and combined with wide-spread support for the United States, which was generally seen as the prime guarantor of Polish sovereignty.

But the problems surrounding the fate of the Nice Treaty did not greatly affect the general Polish enthusiasm for EU membership. Early anxieties, which had been particularly widespread among the still substantial farming population, soon disappeared. A year after Poland joined the EU rural support for membership had risen from 20 to 70 per cent (Burnetko

and Makowski 2005). This support extended to other areas of EU activity and was widespread among the population as a whole. Typically, the question of the treaty had been almost wholly absent from the campaign preceding the 2004 elections to the European Parliament (Gaisbauer 2007, pp.55, 63-4). By early 2005, though, Poland was one of the few countries in which support for the proposed constitution was actually increasing, although this tendency was checked soon after the French and Dutch referendum result (Klotzle 2005). Support for the EU reached 80 per cent at one point, with 68 per cent expressing support for an EU constitution and 66 per cent still thinking after the Franco-Dutch rejection either that the ratification process should be continued or a new constitutional treaty drafted.

Parliamentary elections were held in September 2005, with the first round of a presidential contest just two weeks later. European issues played little role in either campaign, although the centre-right Civic Platform was the only major party openly to favour further EU integration. In contrast to preceding years, when EU issues had been regarded as having considerable importance, surveys suggested that the constitution – like other European issues – was not prominent in the public consciousness in 2005 at all (Wyrozumska 2007, p.315). In its programme, however, the increasingly right-wing Law and Justice (PiS) party explicitly expressed its satisfaction about the failure of the constitutional treaty because of the absence of any recognition of the central role of Christianity in the development of European civilization. The implications this view had for Poland's position within the EU received more emphasis as PiS won the election and sought allies to sustain its position as minority leader. The party was led by Jarosław Kaczyński at the same time as his twin brother, Lech, won the presidential contest. PiS took office in November 2005 and was able to secure the parliamentary support it needed, although a governing coalition with two populist parties, the Catholic League of Polish Families (LPR) and Self-Defence (originally based on a peasant direct action movement), the two parties with the strongest record of Euroscepticism throughout the former parliamentary term, was only formalized in May 2006.

Accommodation with the opportunistic Self-Defence (SO) was easy to arrange, but LPR continued to insist (among other things) that the government would not accept membership of the Eurozone in the current parliament – or at any time according to some accounts. The latter condition would have eventually led to the annulment of the EU accession agreement. PiS identity had also changed from a more centrist position and become increasingly populist and vehement about the promotion of national interests during the election campaign, an evolution that had a distinct influence on Poland's stance towards the EU in 2006. The result was a highly ambiguous attitude on the part of the PiS-led coalition to

EU membership. Kazimierz Marcinkiewicz was appointed prime minister (Jarosław Kaczyński having resigned from this move in order to improve his brother's chances in the presidential election), although he had quite different ideas about the Euro from the leaders of the coalition parties. Self-Defence leader Andrzej Lepper initially continued to call for renegotiation of the accession treaty – but then announced that Polish membership was a great success for the country and offered the country major opportunities, while one of his party colleagues actually called for a rapid Polish move into the Eurozone (Stankiewicz 2006).

Polish attitudes overall towards the EU thus remained contradictory and highly fluid, problems that had been sidestepped in the recent election campaign by the simple expedient of largely ignoring European issues and avoiding questions about the treaty (Instytut Spraw Publicznych 2006). Szczerbiak (2007) argues that this was a rational response to the apparent enthusiasm of the Poles for the treaty, which was actually underlain by ignorance of what any constitution actually entailed and just reflected general support for EU membership. Politicians across the party spectrum were of the opinion in early 2006 that the text was no longer an object of debate and best left that way, with the official 'period of reflection' left to die its own death (Polish Institute of International Affairs 2006). The European public as a whole was indifferent, a view shared by the Kaczyńskis as well as other leaders elected that year like the Czech Topolánek and Slovak Fico (Dinan 2007, p.72).

Party leader Jarosław Kaczyński took over the premiership from Marcinkiewicz in July 2006, which some observers saw presaging a shift to a more extreme, anti-European position, as he reaffirmed the primacy of the nation-state in Europe. On his first visit to Brussels Kaczyński was nevertheless reported to have set a generally pro-EU tone, although his stance was also described by the director of EU affairs in the Polish foreign ministry – who at this stage decided to resign – as at a best 'EU-wary' (Beunderman 2006). 67 per cent of Poles nevertheless continued to evaluate the country's membership of the EU positively (with LPR supporters as the least enthusiastic at 53 per cent), while EU subsidies for agricultural modernization and restructuring extended to benefit as many as 600 thousand farmholdings. Throughout Central and Eastern Europe as a whole in 2006 the question of the constitutional treaty was largely dormant, while Poles remained relatively strong supporters of a constitution (Henderson and Sitter 2007, p.194). Some saw this growing social support feeding into the political class and argued that a changing attitude could be seen on the part of President Kaczyński, who was now less inclined to act as a brake on the process of constitution-making. There was now, declared one headline, no need 'to die for Nice' (Olechowski 2007).

## **2. The revival of the constitutional project**

When discussion of the constitutional project was revived early in 2007 with the inauguration of the German presidency of the EU President Kaczyński, in common with Czech President Vaclav Klaus, was quick to express general scepticism about the proposal. But the Polish position was soon marked out in greater detail with the resurrection of the demand that there should be a reference to 'God' in any such declaration and that Europe's Christian heritage should not be ignored. A far more positive welcome to the new constitutional initiative was offered by the small opposition Left and Democrats coalition, although this was now a very marginal viewpoint. Indications soon emerged that it would again be the voting system on which Poland would lay the greatest emphasis, although it now appeared that it would be not the Nice formula that would be insisted on but a square root calculation of voting weights which would still favour Polish interests. It was also pointed out that a far more practical concern was the maximization of Polish influence within the EU as a whole, particularly in relation to helping determine the content of the post-2013 budget and its provisions for Poland's critical agricultural sector (Pawlicki 2007).

In what became a standard brinkmanship tactic, Kaczyński eventually abandoned his insistence on the reference to Christianity and dropped Polish opposition to the Berlin Declaration, which would have threatened to block the whole project. Soon after this, the newly appointed Polish Permanent Representative to the EU spelt out his country's aspirations and priorities. Concerns for the double majority voting system and the move away from the advantage gained by Poland in the Nice Treaty were at the top of the list. These were followed by the question of 'exclusive and shared competencies in the EU', that is the clarification of states' rights in contrast to the perceived threat of a European super-state (Tombiński 2007). A foreign policy study, further, identified three groups within the EU according to their position on the revived constitutional project. Poland was in a group with Britain and the Czech Republic, which had between them eight specific objections to the current text. They were of a diverse nature, which meant that a coherent alternative should be now drafted and that the national defence of the individual veto might eventually have to be reconsidered, although this was recognised to be a high-cost political option. A contrast was drawn between old and new EU members in terms of their perception of the veto: with established members seeing it as an ultimate nuclear threat while the new members regarded it more as a conventional weapon (Jesień 2007).

The Polish leadership was thus presented as a major obstacle to the effective development of the Union as a whole. The strength of Kaczyński's resistance to at least some of the initiatives taken under the German presidency and his scepticism about the constitutional project overall was underlined in a visit to Commission President Barroso on 18 April. The rhetoric was certainly strong as he underlined continuing Polish fears of 'hegemonic structures' and its determination never again to serve as a puppet to a superpower (*International Herald Tribune* 2007 April 18). This view was by no means out of line with public opinion at the time, as support for a treaty that involved some loss of sovereignty for Poland was equally balanced by popular opposition to any such proposal (Szczerbiak 2007, p.36). Three weeks before an EU summit was due to be held in Brussels to end the deadlock on constitutional issues Polish representatives spelt out Poland's three core demands: a new voting system (the square-root variant rather than the original Nice proposal), a clear list of national competencies, and an energy solidarity clause (Goldirova 2007a).

This formulation of core demands neatly differentiates the range of national strategies, tactics and policies the Polish leadership was developing from the national preferences that underlay President Kaczyński's initial response to the revival of the constitutional project two months earlier. In terms of national preferences, it is clear which outcomes Kaczyński would have preferred. He did not, firstly, welcome the return of the project at all. For a number of years the main Polish objective had been to secure EU membership, which had been achieved only three years previously and under rather generous conditions, not least the voting formula provided by the Nice Treaty. There was no reason to disturb this state of affairs. In terms of valued outcomes it could hardly be considered a surprise, either, that the Polish national preference was for a decidedly Christian Europe with as many Catholic features as possible. The reference to Europe's Christian heritage was the least that might be expected in this context. The emphasis on national autonomy and maximization of Polish influence was easily understandable, too, both in terms of the country's distant and recent history as well as the position it now occupied in the EU – a relatively small player amongst the larger and more powerful members but also a quite large power amongst the growing number of small states (including all the other new accession countries) within the EU. Polish statehood and national clout in the contemporary EU was a sensitive and complex issue, as had been equally apparent in earlier parliamentary pronouncements on key Polish objectives during discussion of the original constitutional treaty (Gwiazda 2006, pp.186-87). In terms of economic interests, on the other hand, the achievement of favourable conditions for the development of Poland's large farm sector was the undoubted priority.



With regard to political strategy and tactics, the Polish approach was equally distinctive. Attack was clearly understood to be the best way of defending national interests and, in common with the Czech president, the Polish leaders did not take EU accession to mean that they should bow to majority pressure. There was certainly little sign of any 'socialization effect' or increased compatibility with the logic of compromise that prevailed in Brussels, quite the contrary in fact (Dimitrakopoulos and Kassim 2004, p.254). Both Poland and UK were warned by EC Commission President Barroso not to block the common attempt to agree a new treaty, which only evoked the response from Prime Minister Kaczyński that they were still ready to die for their preferred voting system (Mahony 2007a).

Polish sources outside governmental circles expressed a different opinion. As the bizarre slogan 'square root or death' received greater publicity and Polish officials began to create the impression that a Polish veto might be a viable option (Rettman 2007a), an alternative view was expressed by experts drawn from several specialist organizations and higher education institutions. The square root formula, they pointed out, was not unknown in international relations circles but had failed to gain general credibility for a number of solid reasons and thus had little chance of success in the current context. Polish interests would best be secured by pursuing other initiatives and securing modification of other existing proposals. The attempt to weaken Germany was, they went on to argue, a crude one and likely to be highly counterproductive as it would also threaten the cohesion and efficiency of the EU as a whole, which was a far better guarantor of Polish interests (Barcz and Świeboda 2007). Another observer noted that the Polish government seemed to prefer methods of confrontation with EU partners rather than those of compromise and consensual agreement, despite the fact that this did not seem the best way to secure national interests. Major Polish representatives were more committed, it seemed, to political advantage in national terms than to success in the EU arena (Jakubek 2008, p.98).

Meanwhile Polish support for EU membership (up to 67 per cent) and levels of recognition of the national benefits of membership (up to 78 per cent) both continued to rise (*Eurobarometer 67*, 2007, pp.17, 21, 36). Poles also seemed to be firmly in favour of the adoption of a constitution for the EU, although not necessarily in the precise form under discussion. It is notable that in the countries formally identified as having equivalent reservations as Poland to the constitutional proposals – Britain and the Czech Republic – popular support for a constitution was far lower at 43 and 55 per cent respectively. Just before the summit Barroso called on both Poland and Britain to take a more constructive and intelligent approach to the discussions, and warned Poland that EU funds might be less

forthcoming if a less co-operative attitude was taken (Mahony 2007b). After lengthy and contentious talks the outline of a new treaty was finally agreed and the path opened for formal intergovernmental negotiations to take place in late July. The square root formula was dropped and agreement reached that the Nice voting system would continue until 2014. The president and Prime Minister Jarosław Kaczyński described the outcome as, respectively, very encouraging and a radical strengthening of Poland's position (Rettman 2007b). It all went down quite well in Poland, where 55 per cent of the population thought that Poland had wholly or partly won. Poland's 'vital issue' appeared to have been secured as successfully as possible in view of the weight of opinion within the EU overall.

Germans and many other Europeans were, however, considerably less than pleased with the twins' frequent references to war themes and the projection of an image of continuing victimhood at the hands of its current partners. More informed Poles were also horrified at the tactical approach taken by the Polish leaders and saw it as a major threat to the pursuit of the country's long-term interests (Bobiński 2007). The prime minister, though, was clearly determined to persist with the aggressive line in preparation for the continuing pursuit of Polish interests during the forthcoming Inter-Governmental Conference. The mood of Polish belligerence was only fed by the recognition that the 'Ioannina Compromise' which was resurrected during the summit – whereby decisions could be delayed for a certain period even if there were not enough countries to vote for their being blocked, a mechanism otherwise superseded by the Nice Treaty – was understood differently by the Poles and other EU leaders (Goldirova 2007b).

During the run-up to the Brussels summit it became clear that Polish interests were defined, articulated and pursued in a highly specific manner. It was one thing for the UK, as the traditional awkward partner, to behave the way it did but rather a different thing for Poland as a new member of the EU and by no means one of the largest or most powerful. The behaviour of 'Poland', of course, refers primarily to its national leadership – the two leading representatives of which, president and prime minister, were near-identical twins, a conjuncture surely unprecedented in modern democratic regimes. Domestic institutional arrangements, so far as they are likely to have affected the articulation of the Polish position, were in this sense highly unusual.

The more powerful of the two in constitutional terms was PM Jarosław Kaczyński, whose PiS party lacked an overall parliamentary majority and had only with some difficulty formed a coalition with two politically eccentric partners. In view of his party's modest parliamentary presence and Poland's low turnout rates, the prime minister's party (which was

also that of the president of course) in fact only represented 11 percent of the national electorate. Party system characteristics and the nature of the leaders' political base were also significant features, then. Poland's robust defence of national interests and frequently aggressive positions rested on a slender base of electoral support, an apparent weakness but a factor which also meant that leaders were relatively unconstrained by a party organization or strongly rooted institution. Leadership qualities and the role of personality were correspondingly enhanced. These processes were in turn situated in a national context of strong support for EU membership and the place the country now occupied within the Union. The brothers' rhetoric was thus given relatively free rein and could appeal vociferously, and in the context quite rationally, to solidly national preferences rooted in traditional Catholicism and national independence – while stepping back from any serious confrontation when Polish economic advantages within the EU might be threatened or serious political isolation might occur. It also gave the leaders considerable scope for playing a two-level game, compensating for the formation of a more Eurosceptic domestic coalition, for example, by articulating in Brussels policies that were somewhat more pro-European (Rettman 2006c).

### **3. Premature elections and the Lisbon summit**

Developments in Poland's ruling coalition again came into prominence in July as the political agreement on which it was based broke down while, in a possible association with this change – and a further reflection of the two-level model, the Polish authorities announced that they would not insist on further concessions regarding the question of EU voting rights. There were also indications that the Polish team had misunderstood the implications of the Ioannina Compromise and the precise form agreed, which now made it a less sensitive issue. On this basis a text was prepared to go forward as what was now termed a Reform Treaty (RT) for IGC negotiation from the end of July.

On September 7 the *Sejm* voted to dissolve itself, thus making the prospect of an early election a certainty. The same day Foreign Minister Fotyga announced that Poland would follow Britain in seeking an 'opt-out' – more precisely a legally binding protocol – from the Charter of Fundamental Rights which was planned to form part of the new Treaty to avoid a clash with widely held Polish conservative and religious values (CER Guide 2007). European issues and the RT, not surprisingly, were dealt with in party manifestos in very different ways. 'Foreign policy' was Part IV of the lengthy PiS manifesto and Section 2, 'Solidarity', dealt with EU issues (after 'Security' and NATO concerns in Section 4). The EU itself was dealt with in cool terms, and anxiety was expressed about the domination of the EU by the countries

which were 'strongest, most populous and most powerful economically'. It pointed out with some pride that the leadership had eliminated at the June summit the elements of the rejected constitutional treaty that were unfavourable to Polish interests (*Program 2007*). The PiS view was not devoid of support from more scholarly quarters. Karolewski (2007, p.512) thus argued that the aim of the large member states, particularly France and Germany, in the constitutionalization process had been precisely 'to modify power relations in their favour'.

Civic Platform had a more substantial section on 'A Strong and Secure Poland in the European Union' which was generally more positive and optimistic about Poland's place in Europe. A welcome was expressed for the new Reform Treaty as it would further the Union's institutional consolidation (*Platforma Obywatelska 2007*). The left wing Left and Democrats party was equally positive in committing itself to signing the RT and building up relations with Germany and France, as well as joining the Eurozone (*LiD: 100 Konkretów 2007*). The Peasant Party was also generally positive – and certainly more so than suggested by its previous tone of Euroscepticism prior to accession – endorsing the European social model and committing itself to the full use of EU funds for rural and agricultural development (*Razem tworzymy 2007*). LPR was far more negative and simply presented some basic principles on its website – amongst them a declaration for national sovereignty and the rejection of any foreign legal framework in the context of a constitutional treaty (LPR Lista Nr 3). Neither did SO present a formal manifesto, although its website still contained the socio-economic programme from 2003 in which it called for the renegotiation of the economic terms of Poland's accession to the EU.

Overall, and not surprisingly in view of the Kaczyńskis' extreme rhetoric and what many saw as the ill-conceived pursuit of Polish national interests, European issues had a higher profile than in other recent Polish elections (Szczurbiak 2008). Apart from the UK it was only in Poland, claimed D. Dinan (2008, p.87), that the fate of the Constitutional Treaty achieved some domestic political resonance. Throughout the campaign period Polish representatives continued to press hard on the shape of the new Treaty, focusing on the Ioaninna clause and the question of whether the decision-blocking mechanism should be written into the treaty or merely attached as a declaration. There were rumours that the president was prepared to block the passage of the compromise treaty that had been agreed in June – although this was increasingly recognised to be a risky game that might well alienate much of the electorate during a tightly fought campaign (TOL 2007). As usual, Poland was identified as a member of the group of leading trouble-makers in the run-up to the Lisbon summit at which the RT was to be adopted.

Just before the summit opened, and three days prior to the Polish election, the president confirmed that he would stand in the way of further discussion of the Treaty if Polish demands were not met, while Roman Giertych (LPR leader) claimed that the adoption of the RT would reduce the country's sovereignty to that of People's Poland during the communist period. The Civic Platform's view was that the Ioannina discussion was devoid of real substance and that other European politicians could not understand why the Polish president continued to press the issue. Predictably, a PiS spokesman replied that such an attack on the president was an act of disloyalty towards the Polish state. In the event, the RT text was adopted with surprising speed at the summit, with President Kaczyński stating that he had got what he wanted, as the Ioannina clause was written into a declaration or protocol to the CT, although not in the actual Treaty itself and it was also linked with another protocol that set conditions on its use.

In the electoral contest, though, PiS leaders were unable to claim such a victory. PO received 41.5 per cent of the vote and PiS just 32.1 per cent. However, Civic Platform was far from united as a party and also had a strong Eurosceptic element. It was expected to stick to the Kaczyński view of the EU as a union of states rather than some kind of tighter federation and to fight strongly for the Polish national interest. 'National preferences' and 'vital issues' were not likely to be greatly changed. On the other hand, the key battles over the Reform Treaty were now over and it would be easier for the new Polish leadership to adopt a more co-operative approach.

In the immediate aftermath of the election the key message from PO, described as 'pro-business and pro-EU centre-right', was that Polish relations with Russia would also improve. A week later Prime Minister Donald Tusk stated that good relations with Germany would be the key to strengthening Poland's position in Europe. The main principle, in fact, was the cultivation of more cooperative and less antagonistic relations with European countries as a whole – not so much 'some kind of radical breakthrough but more the greatest trust and openness', i.e. a change of tactics rather than overall strategy (Wagstyl 2007). It was also pointed out that what westerners saw as pushy or obstructive Polish behaviour was as much the consequence of Polish history and its geopolitical position as of a specific PiS policy commitment, and that these influences would also necessarily condition the actions of the new PO-led government (Ascherson 2007). It was a change in form rather than the content of Poland's relations with the EU that should be expected.

The question of whether Poland should sign up for the Fundamental Charter of Human Rights or stick with the opt-out agreed by the former government emerged as the first bone of political contention. PiS, with the backing of the Church, had argued that this would legalize

the practice of 'homosexual marriage'. PiS EP deputy Konrad Szymański stated that any retreat from the agreed opt-out would significantly impair the outcome of the recent RT summit, as PiS representatives would then be unlikely to support ratification. Various interest groups also intervened. The Polish section of the Helsinki Foundation pointed out that Tusk had expressly committed any future PO government to accepting the Charter, a position also taken by Poland's trade unions. PO Eurodeputy Jacek Saryusz-Wolski (chair of the EP Foreign Affairs Commission), on the other hand, argued for the swiftest possible ratification of the RT by Poland – which meant that it would not be in a position to sign the Charter, despite the government's desire to follow a decidedly pro-European policy. Civil rights spokesman Janusz Kochanowski also claimed that the Charter would bring about legal chaos and lower the level of human rights protection in Poland.

When the new prime minister presented his cabinet's programme to parliament he indeed confirmed the status quo, saying that 'We do not share our predecessors' fears about the Charter but we respect their point of view' (Olczyk 2007). On a first visit to Brussels in his new role soon after Tusk reaffirmed this position, which was taken with good grace by EU leaders who accepted that the rapid ratification of the RT by the Polish parliament was the main priority. Apart from the question of 'homosexual marriage', the opposition and Church spokesmen were also exercised by threats to the 'right to life' (i.e. more abortions), the cloning of human cells, and the continuing absence of any reference to God in RT preamble, as well as the possibility of claims on Polish property by former German residents. While the commitment to Catholic values was a national preference no political leader could disavow, there were differences in the strength of this commitment and the way in which the values were interpreted. As a sweetener, too, hints were dropped by Polish sources that the country was considering signing up to the rights charter some time during the next year.

#### **4. Problems with the ratification process**

The treaty was formally adopted by the twenty-seven member states in Lisbon on 13 December 2007. 'All' that remained was the ratification by national governments. As this was likely to take place through parliaments, with only Ireland obliged to hold a referendum, it was felt at the beginning of 2008 that this would not be too testing a process now that the 'constitutional' elements of the old treaty had – at least to some extent – been watered down. Well before the Irish referendum, however, tensions about the process arose in Poland despite the fact that the former Kaczyński government had secured significant opt-outs and agreements prior to the June agreement and that the new EU-friendly Tusk government was

now in office. The root of the problem lay in the fact that, while Jarosław Kaczyński had lost the 2007 election, his brother still retained the presidency and significant numbers of the PiS opposition remained opposed to the president ratifying the treaty. PiS leaders were reported to have admitted that the party was hoping to strengthen links with their supporters by taking a pro- and anti-EU position at the same time. As the government was seven votes short of the necessary two-thirds majority in the lower house to ratify the treaty, this gave PiS representatives a good opportunity to flex their political muscle.

Although the Polish government seemed to have secured the required opt-outs and guarantees during the 2007 negotiations, the opposition also now demanded that the government ratification bill itself should reaffirm Polish sovereignty and the primacy of the country's constitution over EU decisions and directives. The usual list of issues including 'homosexual marriage', abortion, euthanasia and German property rights was again mentioned. Such assurances were secured and the *Sejm* approved the treaty on April 1<sup>st</sup>, although the deal struck also included a government commitment to consider a new division of powers between the president, government and parliament. It was pointed out that, while President Kaczyński had indeed signed the bill concerning the ratification of the Lisbon Treaty, he still had until the end of the year to sign the ratification act itself. It was, then, premature to declare at this point that the president's signature cleared 'the final hurdle in the country's ratification process' (*EurActiv* 2008 April 11). It was also argued that the competence bill, which concerned the fine-tuning of powers between the three key institutions of state and had yet to complete its parliamentary passage, might also affect final ratification of the treaty – although the minister of foreign affairs had a different view.

Matters nevertheless remained quiet in Poland on the question of the Lisbon Treaty until the Irish referendum in June. Once the result was known Prime Minister Tusk immediately stated that, despite the Irish rejection, other EU members should continue with the ratification process and that he had reason to believe that the president also favoured Poland going ahead with it. Doubts soon arose about the second half of this statement, however. Presidential Minister Kamiński was quick to point out that the bill could not be signed until the competence bill had been finalized, while in any case it was not clear that the treaty still existed in any real sense after the Irish rejection (in the way that the original constitutional treaty had been set aside after the 2005 referendums). President Kaczyński also outlined his views in a lengthy newspaper article. For the first time he stated outright that he would not sign the treaty because, in the current context, it was a useless document and he implied that acceptance now would not further Poland's interests (Kaczyński 2008). Domestic

opportunity structures were clearly affected by the fact that the president was still linked by a political umbilical cord to the leader of PiS, now in opposition but still led by his brother. In the context of the Lisbon Treaty, Prime Minister Tusk had in practice to deal with an antagonistic president rather than an opposition represented in parliament.

It was hardly coincidental that Kaczyński's interview was published the same day that France took up the EU presidency – as he said in the same article, his policy was to ensure that the phone line to Polish leaders was used as often as possible by politicians in Berlin, Paris or London. Equally, his strategy was based on the premise that it was more effective to act as strong country among the weak rather than the weakest of the strong. All in all, any principled Polish 'threat' to further EU integration and opposition to ratification of the Lisbon Treaty was considerably less pronounced than many seemed to think. President Kaczyński thus toned down his rhetoric almost immediately, pointing out that he was hardly likely to be fundamentally opposed to a treaty he had played a major role in negotiating.

Later developments also exerted an influence on the uncertain process of treaty ratification, and some saw the picture undergoing radical change with the Russian invasion of Georgia in August 2008. Henceforth, neither Poles nor Czechs, it was suggested, would be sceptics about the merits of the Lisbon Treaty (Ackerman 2008). President Kaczyński was, indeed, reported to speak a different language after the extraordinary EU summit convened to discuss the Georgian crisis and was apparently now less unconvinced of the need for Ireland to hold a second referendum. Overall, however, it had also become clear that ratification of the Treaty would not be possible before the end of the year, as had previously been regarded as essential if it was to come into force at all, and the issue faded from the immediate agenda in Poland. In January 2009 the president nevertheless continued to insist that he would not sign before the Irish has agreed to it in a second referendum.

## **5. Conclusion**

In terms of general models of EU dynamics the Polish experience appears to be quite specific and is not a case that fits well with established categories. The idea of an 'awkward partner' is not original but it was quite surprising for a new member state to take on that role so rapidly, although the Czech Republic and its president in particular have not been slow to emulate the Polish model. Despite the lengthy preparation for membership and the increasing emphasis placed on accession conditions there is scant evidence for an entrenched social-learning effect resulting from closer relations, particularly with respect to the style of government negotiation and the articulation of national preferences (Schimmelfennig, Engert and Knobel 2005).



Unlike the United Kingdom, too, Poland's Eurosceptic stance was developed by the Kaczyńskis in a context where public opinion was decidedly supportive of the EU and even the Lisbon Treaty. Precisely how societal interests are translated into national preferences is not at all clear in a context where such a public is represented by a Eurosceptic leadership. The structure of the political system and opportunity structures associated with the party system clearly played a part in this (Dimitrakopoulos and Kassim 2004, pp.251-2). In common with other post-communist states the Polish party system was weak and fluid, and links with the electorate tenuous and largely uninstitutionalized. This gave considerable scope for personality politics and changes of political position – established features of the Kaczyńskis' past political record – as well as problems of government formation and survival.

The divergence of the Kaczyński's position from that of the bulk of the population should, however, not be exaggerated. Nationalist values and a strong Catholic commitment were deeply rooted in Polish society, although they might be expressed in different ways. Nevertheless, the capacity for civil society to exercise control over government and shape government behaviour is limited in this context, certainly more than is generally assumed in liberal intergovernmental approaches to national preference formation. Overall, the nature of the relatively young post-communist regime exerted an important influence on national preferences and government activity in articulating them in negotiations on the Treaty.

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