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The E.U. institutional crisis

By the way … what do the new Member States think?

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Summary of a Notre Europe Seminar held in Paris, 9 December 2005

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Foreword

Repercussions of the post-referendum European crisis in the new EU Member States

Re-learning Europe

Since the end of communism (1989-1991), the countries in the former Eastern Bloc (Poland, Czech Republic, Slovakia, Hungary, Slovenia, Latvia, Lithuania, Estonia) have been involved in the European construction process in view of their integration. Consequently, they have become de facto agents of European socialisation. The EU has allowed them to gradually open up to the single market, to upgrade their judicial and modernise their administrations thanks to aid received under programmes such as PHARE. At the same time, these countries have joined the discussions on European identity, values and citizenship. Negotiations focusing on the community *acquis,* like those on the Convention on the future of Europe, in which they were full partners, mean that the stakes like the "Return to Europe", which initially were ideological, abstract and external to these countries, became concrete and increasingly internalised in each country. For them this was the "domestication" of Europe. All of these moments have been decisive for the Community apprenticeship of the various players in Central Europe and for their integration into the European game.

Some of them rightfully complained about the lack of symmetry in the process. They are particularly sensitive to this because these countries have just thrown off a dominating power, the Soviet Union, which had deprived them of the right to self-determination. In addition, euro-sceptics, euro-realists and other anti-Europeans, who are very active on the political scene in Central Europe, have always voluntarily promoted confusion by comparing the EU to the USSR and arguing that, like Soviet Russia, the EU asks new members to voluntarily abandon some of the newly regained attributes of sovereignty.

Misuse of European semantics

On both sides, this process of mutual recognition is far from complete. The symbolic reference to the "Polish plumber" during the French referendum campaign may be considered as an instance of this unachieved evolution. This gibe is only the visible part of a real semantic problem. The political players in the EU must learn that misuse of symbols can have important consequences. This is not restricted exclusively to demagogues, who use it as a routine political weapon – but also and too often to staunch supporters of the EU. It is true that there is a real lack of European identity both in the new Member States and in the States that have belonged to the Union for much longer. In this context, the power of words is crucial. The carelessness with which politicians

use makeshift metaphors is one example among others. It is hard to measure the damage done by metaphors taken from geometry ("circles"), thermodynamics ("hard-core combustion") or economics and shipping ("roads" and "motorways"). For Eastern Europeans, this is perceived as an attempt to distinguish two categories of Europeans: first–rate citizens and second-rate citizens.

The same sensitivity of the new Member States was apparent on 1 May 2004 in another semantic quarrel: were we *enlarging* the EU or *reunifying* Europe, as affirmed by Vaclav Havel and Bronislaw Geremek? For them, the words made a big difference. This is why they preferred to refer to "reunification" as if they wanted to underline the fact that their countries had never stop being European, despite the despite the division following the second World War. Words were important again during the discussion on the axiological, and particularly religious, roots in the Preamble to the treaty. It is no accident that Poland, the country of Pope John Paul II made it a key identity issue.

SITUATION AFTER ACCESSION AND REFERENDUMS

Since the accession of eight post-communist countries to the EU in May 2004, their relation to the EU has changed considerably. Despite fears of massive abstention, the vote for accession won by a large majority. However, leaders in Central Europe, such as B. Geremek, emphasized that "the lack of enthusiasm of the candidate countries is only the reflection of a lack enthusiasm of the 15".

The asymmetrical situation between these countries and the EU institutions, and between them and the older Member States, has shifted to a more balanced relationship since their adhesion as full members[1]. Accession has created new challenges for the administrations and political players in these countries, as they move from a fairly passive acceptance of community *acquis* before enlargement to an active contribution to the definition of Community policies and negotiations within the framework of the European institutions. For that matter their political clout on the European scene has just been demonstrated on the occasion of the compromise on financial perspectives.

The countries of Central Europe have also been very active in discussions on the text of the Constitutional Treaty, both before and after enlargement (2002-2005). In addition to participating in the work on the Convention on the Future of Europe via full, representative delegations, these countries have had a significant influence up to the Intergovernmental Conference that finalised the text. On this occasion, each of these countries reproduced interesting splits between partisans and opponents of greater collaboration and these discussions were relayed by forums and by the media. This explains why knowledge of the European issues at stake was sometimes greater within these countries than in the older Member States. These countries used a variety of strategies during the discussions on the Convention, and there was almost no attempt to develop a

[1] Except, nevertheless, for the transitional periods that still restrict the rights of these countries in a few fields, such as access to the job market.

lobby based on the former Soviet bloc. The split reflected other distinctions: disagreement between small and large countries, between the countries that were formerly members of the Mitteleuropa region and the Visegrad four, etc.

After the failure of the referendums in France and the Denmark, the discussion on the "constitutional" future of the European Union was frozen and deactivated. Some of the new members, such as Hungary, Lithuania, Slovenia, Slovakia and Latvia, which chose a parliamentary vote, ratified the Treaty between December 2004 and June 2005. Poland, and particularly the Czech Republic, which chose a referendum, seemed relieved to postpone the date of the vote following the failure of the referendum in France and the Netherlands. In fact, one gets the impression that the discussion is no longer a priority at government level, and information campaigns on the text of the treaty have melted away like snow.

The crisis caused by the rejection of the text of the Constitution, and more generally by what appears to certain new Member States to be a crisis in "European governance", does not radically question the European project. Nevertheless, perceptions of the symptoms of this crisis differ in the new and the old Member States. For example, the absence of a solution to the conflict on the directive on the liberalisation of services, which has been approved by most new members, which are fundamentally more liberal, undermines mutual understanding. Nor do these countries understand the various restrictions on freedom of movement of labour, or the discussion on the disadvantages of relocating. Recent obstacles to adopting the budget for 2007-2013 were also considered as a major distortion of the principle of European solidarity. It goes without saying that the "euro crisis" is reflected in the internal partisan discussions in each country as they provide arguments for the Euro-sceptics (or euro-realists as they like to call themselves in the Czech Republic). However, even for these centrifugal trends, changing tactics has become urgent, as these States shift from European **outsiders** to **insider** status. Their participation in the elections in European Parliament in June 2004 illustrates this.

The European order has changed totally since 1 May 2004. Despite the crisis of "European governance", which is indirectly the consequence, the new Member States and their elites have not given up on Europe. As a Polish analyst said after the French rejected the text of the treaty: "*This vote carries good news for Europe: a political Europe under another definition will arise in any case – a Europe where the guidelines will be set by societies and not by technocrats*". Even after eliminating a hint of demagogy, the message remains strong. To win the next attempt at developing an EU constitution that will contribute to the mechanisms of integration, European citizens must be more closely involved in the debate.

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Now that the European Union (EU) is going through an institutional crisis and the European Council has decided to "take a break", *Notre Europe* decided to devote its last seminar on the series of "The referendums abroad" to the new Member States' perception of the situation. Because they necessarily have a different viewpoint on this crisis and because their positions are often not well-known, or even ignored, the new Member States deserve an opportunity to express themselves, and better still, a chance to be heard.

For this reason, *Notre Europe* has set up a panel that is unusual in its diversity[2]: diversity of profiles, with personalities from the diplomatic world such as Ms Turne and Mr Telicka, and from the political world lsuch as Mr Zahradil and Mr Piks; diversity of the countries represented, with a balance between a "large" country like Poland, a "middle-sized" country like the Czech Republic, and finally a "small" country like Latvia, as well as a balance between a State that has already ratified the Constitutional Treaty like Latvia (2 June 2005) and States that have postponed ratification sine die. Finally, diversity of European positions, including some who are quite Europhile such as European MP Jan Kulakowski (ALDE) and some who are more Euro-sceptical like the Counsellor for European affairs of the Czech party ODS, European MP Jan Zahradil (PPE-DE)[3].

This was the panel that held four hours of discussions on Friday, December 9 at *Maison de l'Europe*, under the chairmanship of Tommaso Padoa-Schioppa (Chairman of *Notre Europe*), and moderated by a specialist on Central and Eastern European countries, Professor Georges Mink. Two driving ideas came out of it: the need on one hand to correctly measure the European crisis and, on the other, not to stop at the institutional aspect but to broaden thinking to the question of the European political project. On this subject, the current financial discussions and the question of future enlargement serve as a test of the EU's capacity to bounce back.

1. A CRISIS WITH MULTIPLE CAUSES CREATING A SHOCKWAVE THAT HAS BEEN TRANSMITTED TO THE NEW MEMBER STATES

When asked to express themselves on the perception of the French and Dutch referendums in their countries, all of the panel members emphasised the split that this dual rejection represents. The idea that a European crisis must follow was shared by four of them and, although the causes that they underlined diverge, there was unanimous agreement that this crisis could be contagious.

[2] *Notre Europe* worked on this with: Euractiv, Association France-Pologne pour Europe, Providus (Latvia), the Institute for Public Affairs (Poland) and Europeum (Czech Republic).
[3] European MP Ryzsard Carnecki (self-defence party) was initially going to represent the euro-sceptical tendency in Poland, but for personal reasons, he had to desist at the last minute.

1. A REAL CRISIS, PERCEIVED AS SUCH, THE CAUSES OF WHICH ARE STILL UNDER DISCUSSION

Except for Jan Zahradil, all panellists agreed that the European crisis was real. As for every political crisis, the source of this one is found both in the current situation (associated with enlargement and the socio-economic context) and in structural factors (national and European leadership crisis, and lack of knowledge and discussion).

Jan Kulakowski: "No one gets anywhere with this syndrome game".

Instrumentalisation of enlargement: recognising that enlargement may have had a negative influence on the outcome of the referendum, Mr Kulakowski and Ms Kurme see this as an instrumentalisation of the question, as for the now famous myth of the "Polish plumber". For Mr Kulakowski, this question symbolises the fantastical discrepancy between European reality and what was said during the French referendum campaign. To support this, he refers to a recent study according to which the employment gap resulting from opening up to Poland was largely positive for France during the period 1994-2004 (a coefficient of 10 between jobs created and jobs lost). In addition, he points an accusing finger at the absurd slant of the argument noting that, on their side the Polish Euro-sceptics refer to the same potential problems with regard French investments in Poland – faced with the invasion of French cheese, national production is allegedly disappearing. This is referred to as the "camembert syndrome". He concludes that: "No one gets anywhere with this syndrome game". For Ms Kurme, the criticism is not founded in either letter nor spirit. Literally speaking, she notes that at this time there are only 200 Polish plumbers working in France, whereas there are 6000 vacancies in the profession. As for the spirit, she emphasises the fact that, although Latvians pay lower social contributions in absolute value, they pay about the same proportion of their income as their fellow Europeans from the West.

An unfavourable economic context: Ms Kurme counters the argument of unfair competition from the new Member States, but she does recognise that economic considerations played a role. In her opinion, this is the consequence of the persistent gap between the hopes created by the common market and the results actually obtained (9% unemployment on average in the Union and lukewarm growth of about 2%). Similarly, she feels that the European Central Bank and the Commission are partially responsible, in that these two institutions have not taken sufficient initiatives to ensure the growth of the European economy.

The referendum was an instrument incompatible with the social climate: This argument was propounded by Messrs Telicka and Kulakowski. Mr Telicka commented that a referendum is always a political risk[4]. He wondered, for that matter, why it was used in France and Holland and felt that this was explained both by democratic concerns and by lack of political courage. He

[4] When the questions were opened up to the floor, Professor Quermonne agreed with this proposal. In particular, he noted that the referendum as an instrument in France inevitably gives rise to a plebiscite logic, which was demonstrated in fact by the referendums in 1969 and 2005.

attributed this to the obsession of European governments with surveys, inevitably resulting in short-term policies. The choice of a referendum was particularly clumsy in that both countries face considerable social malaise and, as Mr Kulakowski also underscored, their political leaders are suffering from a legitimacy crisis. Mr Kulakowski feels that this is why the most unlikely fantasies got such an echo in public opinion. One of these, in his opinion, is a false opposition between a social Europe and a liberal Europe. On this point, he considers that the very essence of European construction is of a social democrat inspiration. Similarly, all the discussions between those who support Europe made up of nation states and those in favour of a federal Europe are somehow artificial and contribute to scrambling the message. In Mr Kulakowski's opinion, this opinion-scrambling mechanism was exercised on the issue of future enlargement for example. In fact, the Constitutional Treaty specifically provides for a mechanism that would make enlargement more difficult, but the question illogically constituted one of the motors of a negative vote. He feels that we saw the Constitutional Treaty used as a scapegoat for all social and political frustrations. Mr Zahradil disagrees with this insofar as he feels that it is unfair to consider the negative votes as having less value, or less rationale than the positive votes. On the contrary, he feels that the results of the referendums expressed a deeper feeling of scepticism with regard to the federal orientation of European integration.

What is more upsetting, is that the five speakers see the expression of structural trends in the current crisis; their interpretations differ, however, when it comes to qualifying these trends.

Jan Zahradil: "29 May is not a crisis, this is just the end of a certain idea of Europe."

Rejection of the federal orientation of the Union: This is Mr Zahradil's interpretation[5]. Consequently, far from constituting a crisis, 29 May and 1 June represent only the definitive rejection of a certain idea of Europe, which would have the supranational take precedence over the nation-states. He finds proof for this in various surveys taken in the Czech Republic. Thus, in a survey in December 2004, 44% of Czechs felt that the EU exercises too much influence in the country, as compared to only 15% ten years earlier. Similarly, in July 2005, 83% of Czechs considered that Europe should remain essentially an economic entity versus 17% who wanted to see it move towards political union.

Lack of knowledge and discussion: While he challenges the previous surveys[6], Pavel Telicka analyses the results of the referendum less as a growing rejection of the idea of Europe than the consequence of a lack of knowledge and discussion on European integration. Two arguments plead

[5] The federal question was discussed at length during questions with the audience. Some people, such as Professor Dehousse noted that, on the contrary, the Constitutional Treaty was anything but federal. Mr. Zahradil answered that this must not be seen from the standpoint of the definition given in constitutional law, but from its political acceptance. In this context, by transferring new competence to the Union, the Treaty has a "federal" orientation. At this point, R. Piks spoke to say that new fields of European competence could be created (for example in the field of common foreign policy) without adopting a federal logic. Jan Kulakowski concluded the discussion by citing the well-known comment by Jacques Delors that says that European integration can only be achieved by means of *sui generis* logic. Consequently, in his opinion, one must be particularly careful of the words that are used.

[6] The Latvians voted in favour of the accession of their country to the Union by 67%, with participation of 72.5%. On the question of accession referendums, see Jean-Michel DE WAELE, European Union accession referendums, Brussels, ULB Colleges, 2005.

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for this opinion. On one hand is the Czechs' growing appreciation of their participation in the EU although during the same period, accession had given rise to a host of counter truths (for example on the risk of seeing a rise in the price of bread). On the other hand is the structural difficulty of communicating on European issues, an argument based on his personal experience as a member of the European Commission. As an illustration of this idea, R. Piks refers to the Latvian case. In fact, he notes that before the referendum on accession of 20 September 2003 there was a certain scepticism in the population. Now, thanks to the information campaign implemented at the time, the fears and misunderstandings have been removed, which has resulted in massive positive acceptance. Consequently, he concluded that a broader discussion and better fundamental knowledge of Europe were needed upstream before the constitutional referendums.

An overall European crisis: for Jan Kulakowski, the European crisis is deeper than one might think. It includes four aspects:

- A crisis of values: this is not limited, moreover, to whether the concept of religious heritage should be included in the preamble or not.
- A crisis of a certain vision of Europe: The objectives of peace and democracy no longer suffice to mobilise people. We've gone from the European project to its management. On this subject, P. Telicka refers to "a crisis in vision at both European and national levels".
- A three-fold confidence crisis:
  - the growing gap between the "elite" and their populations
  - a climate of mistrust in France and in Holland
  - wariness with regard to enlargement
- A leadership crisis in Europe: this means that any rapid solution to the crisis is chancy, given that historically, the previous European crises could only find a solution as the result of the action of certain personalities.

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2. A SHOCKWAVE SPREADING TO THE NEW MEMBER STATES, RESULTING IN A REDUCTION OF ADHESION TO THE EUROPEAN CAUSE

Beyond the nature and the causes of the crisis, all recognise that the wave of discontent with regard to Europe expressed in the spring of 2005 has spread to the new Member States.

In Latvia: according to R. Picks, while 36% of Latvians on average considered that membership of the country in the Union was beneficial, this result dropped abruptly to 13% in July 2005 and then rose again and has levelled off at about 30%. This question is still discussed relatively little on the Latvian political scene.

Pavel Telicka : "The current crisis is a crisis of political courage."

In the Czech Republic: A survey dated 14 July 2005 to which Jan Zahradil referred shows that 37% of Czechs are opposed to the Constitutional Treaty (as compared to 21% in favour). Still more clearly, 73% would like to see an end to the ratification process.

Jan Kulakowski: “29 May accentuated the jilted lover feeling.”

In Poland: for Jan Kulakowski, the result of the French referendum simply accentuated the feeling of a "jilted lover" that the Polish entertain with regard to France. Those who were against the Constitutional Treaty, either because by nature they are Euro-sceptics or simply because they want to maintain the Treaty of Nice, have come out that much stronger. In his opinion, this is a partial explanation of the dynamic of success of the party of law and justice (PiS) during the last national elections. With regard to the Constitutional Treaty, allegedly only 30% of the Poles continue to support it, as compared to 60% before 29 May.

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II IMAGINING A SOLUTION TO THE CRISIS BEYOND THE INSTITUTIONAL QUESTION

Different analyses of the crisis necessarily result in different recommendations. However, these deal less with the institutional question than with the European project itself. On this issue, discussions on the financial perspectives and the continuation of the enlargement process act as life-sized tests to assess the capacity of the Union to redefine its cohesion and its project.

1. THE CONSTITUTIONAL TREATY IS DEAD. LONG LIVE THE TREATY!

In the opinion of most participants, the Constitutional Treaty is dead. However, while Jan Zahradil thinks that this means the end of any constitutional dimension of the EU, others, like Pavel Telicka talk about using this time to draft a clearer text. Between the two, are various strategies for a "pick-and-choose Constitutional Treaty".

The temptation of an institutional status quo: Unsurprisingly, this is the position of Jan Zahradil who was a member of the Convention himself but whose party, ODS, is opposed to the Constitutional Treaty. Even if he admits that in theory it might be possible to fan the constitutional flame, either by means of a new referendum or by dissecting the text and maintaining the most consensual clauses, in his opinion good sense means refraining from any initiative in the field. He feels that anything else would result in a more serious confidence crisis between European leaders and their citizens.

Drafting a new, clearer text more in step with citizen expectations: While he recognizes that it is politically inconceivable to submit the same text to a popular vote, and that a dynamic of rejection could even appear on this occasion, Pavel Telicka emphasised the need to maintain institutional concerns on the Community agenda. He feels that a new treaty should be drafted that is both clearer in its wording and closer to the real expectations of European citizens (in the field of internal security, for example).

Rihards Piks: « The Constitutional Treaty is the best possible compromise. »

The "pick-and-choose* Constitutional Treaty" *scenarios: these are supported by Jan Kulakowski, Rihards Piks and Astra Kurme. Mr Kulakowski agrees that it would be politically suicidal to maintain the same text, but he does not think that the constitutional ambition of the Union should be abandoned. Referring to the work done by Andrew Duff in the European Parliament, he considers that certain parts of the text could be recovered as such. When it comes to the method, he wonders if it would be opportune to appoint a "Committee of Wise Men" to revamp the text, as has already been done in European history. Rihards Piks and Astra Kurme are more attached to the text signed on 29 October 2004. For the former, who also took part in drafting it as a member of the Convention and who now sits on the Constitutional

Affairs Committee at the European Parliament, the treaty submitted by referendum to the French is the "best possible compromise"; to a large extent, moreover, it takes inspiration from French concerns. Among the various imaginable scenarios, the possibility of using the 4/5 recovery clause must not be disregarded[7]. At the same time, the European debate must be improved. Ms Kurme echoes this. Without presuming to decide the question she considers that the positive aspects of the text should be maintained, in one form or another. Recalling that her country ratified the Constitutional Treaty on 2 June 2005 by parliamentary vote, she implicitly answers the question of continuing ratifications by asking why the Spanish vote would be less important than the French and Dutch votes. However, while noting that the European governments are all mobilised on this subject, she feels that the question must be asked in broader terms.

2. More, less or better Europe?

In the panellists' opinions, the question of the future of Europe and its project – much more than the institutional question – should be the focal point of all discussions. However, scenarios differ depending on one's analysis of the current situation.

The pros and cons of European integration must be measured in order to define their limits: for Mr Zahradil, the results in the spring of 2005 are no more than the expression of growing frustration with regard to European integration. Too far from the real concerns of its citizens, hardly representative, Europe has lost its appeal. To make things worse, Europe is less and less efficient. With gaps in living standards that continue to grow between Member States (a coefficient of one to six between Luxembourg and Latvia) and increasingly unsuitable means (the structural funds, the inability to adapt the rules to situations in different countries, the small size of the Community budget, etc.), Europe no longer meets Europeans' expectations. Two recommendations: assessing the pros and cons of the potential added value of the Union per sector, on one hand, and, on the other, imagining alternative paths of integration that are not necessarily limited to simply going back to an intergovernmental method. In the meantime, enlargement should continue.

For a fully integrated Europe with a federal budget: This is the position of the two Latvian representatives. Ms Kurme feels that, before setting other objectives, the Union should achieve the ones it currently has, particularly completion of the internal market. From the standpoint of a stronger Europe, the discussion of the budget seems the first test to her. This is also supported by Rihards Piks who, quoting Michel Barnier, emphasises the fact that Europe has reached a decisive turning point and that the result of the financial negotiations will determine to a large extent its capacity to redefine its political project.

[7] Declaration 30, annexed to the Constitutional Treaty, stipulates the Council can consider the question on 1 November 2006 if a country has difficulty ratifying the text and, at the same time, 4/5 of the Member States have ratified it.

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"Better" Europe rather than "more" Europe: this preoccupation led Mr Kulakowski to prefer the achievement of a federal area based on stricter respect of the subsidiarity principle, which would adopt new ambitions and renew the values on which the initial agreement on constitution was based. On this subject, Mr Kulakowski considers that new enlargements should include a clause on the European project in the accession criteria. In fact, while he is in favour of a geographic extension of Europe to include Turkey, he does not want this to result in a dilution of the European project. Finally, he underlines that the budget discussion, for which the new Member States were willing to make major efforts in June 2005, will be a decisive test of its capacity to define policy. In his opinion, a sustainable balance between competition and social cohesion inside Europe will depend on the negotiation of the budget. This is also the opinion of Pavel Telicka. While he recognises that no crisis exit strategy is necessary at this time, he stresses the need to communicate better about Europe. To his mind, "the time for reflection must not be a time of weakness". This also entails the organisation of discussions as well as better adaptation of the European discourse to social groups receiving it, and if need be inventing new means of communication. Speaking more fundamentally, he recommends a Union that corresponds better to its citizens' expectations, both as concerns infrastructures and economic investment. Replying to Henri Nallet, he recognises that the need for renewal entails a more effective European Commission, which, to his way of thinking, means the end of the rule of one Commissioner per Member State. He however wonders whether the Member States are really politically willing to appoint a powerful and efficient Commission.

Pavel Telicka: "The reflection time must not be a time of weakness."

CONCLUSION: THE DISCUSSION MUST GO ON, BUT EVERYONE MUST FIND HIS PLACE IN IT

The discussion, as the President of *Notre Europe* underlines, has highlighted the dynamic perspective of Europe: it would be a mistake to consider that the current situation is the end of a cycle, the advent of a finished world. Thanks to discussions of ideas that arose during seminars such as the one organised by *Notre Europe*, Europe continues to move forward. France now has to make an effort in this discussion and re-gain its position as a driving force within the EU, a position that conditions its international influence.