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### ***Possible implications of the Constitutional Treaty for the EU Foreign and Security Policy – A Czech Perspective***

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The Czech Republic represents after Denmark and Ireland a good example of the third special group of countries inside the enlarged EU of 25 member states (EU-25) in CFSP/ESDP matters. “New” EU members from Central and Eastern Europe are also skeptical towards certain aspects and ambitions of ESDP, share more Atlanticist instincts and have strong preference for realizing European security/defence ambitions through good EU-NATO working relations, especially by utilizing of Berlin+ arrangements as much as possible. Declaration on strategic cooperation between EU and NATO from December 2002 and ensuing completion of NATO-EU Framework Agreement is seen as the best vehicle for ESDP practical efforts. Otherwise new EU member states have for the moment relatively limited number of clear and strong preferences in CFSP which allows them to take a neutral stance in most of the CFSP internal discussions

The Czech Republic as such is, however, in a more difficult position since there is so far no broad consensus on draft EU Constitutional Treaty, on the contrary there is a sharp division between Czech coalition government (Social Democrats ČSSD, Christian Democrats KDU-ČSL, Freedom Union US-DEU) and opposition parties (Civic Democrats ODS, Communists KSČM). Current situation is even made worse by disharmony that characterizes activities of key Czech government representatives vs. Czech president abroad.

Following are nevertheless main points of the Czech perspectives on proposals contained in draft EU Constitutional Treaty as defined explicitly or implicitly by Czech government, parliament, mainstream Czech political discourse and shared occasionally also by opposition parties which otherwise represent strongly Euroskeptical strands of Czech politics – unlike the Czech population, which in majority does not share their skeptical views towards the EU and especially is not so adamantly opposed to the EU’s profile in foreign, security and defence issues as Civic Democratic Party (ODS), including its former long-time chairman and current Czech president, Václav Klaus.

1. *Basic aims and principles of CFSP* (or EU’s External Action) are broadly acceptable, including a strong support for international law as a key principle of international

system that EU must uphold and on which especially small and medium/sized states depend. On this point, however, Czech views start to differ as some parties drew different conclusions from the current global war on terrorism. They insist upon retaining much more flexibility for member states to join ad-hoc coalitions (especially those US-led) for operations like *Allied Force* over Kosovo in 1999 or *Iraqi Freedom* in 2003, even should they be carried out on the edge of borders delineated by international law or beyond it.

2. *New institutions shaping directly CFSP* are much more controversial for the Czech Republic. President (or Chairman) of the European Council is seen as problematic with unclear division of labour with other EU representatives. On the top of that, given internal balance of member states of different sizes this newly created post is seen as superficially designed especially for some high/profile politician coming from big EU member states, thereby changing internal EU balance in their favor. Even more unclearly defined is the job description and exact position within EU institutions of the new EU Foreign Minister. Some Czech political parties (especially ODS) strongly object even against the name of the post, fearing that a misleading image of a strong supranational entity, including central EU government would thus be created. Others demand clarification of the substance of the job while supporting in principle motives of better continuity and coherence produced by merger of currently two separate positions of High Representative for CFSP and Commissioner for External Relations. As potentially risky from the point of accountability is nevertheless seen formula of a person sitting on two chairs / both in the Council and the Commission.  
On the other hand, creation of a single EU Diplomatic Service is so far interpreted in a benign fashion as strengthening representation of EU smaller member states in third countries.
3. *Procedures* in CFSP/ESDP areas are in draft EU Constitutional Treaty still based on unanimity as its prevailing guiding principle which is a welcomed feature, although Czech opinion is here divided as far as this should be the unbreakable rule also for the future. While ODS favours keeping unanimity at all costs, coalition government would consider also concessions towards more qualified majority voting (QMV). However, QMV construction itself is partially contentious as the proposed QMV formula favours big member states – the Czech Republic would be much better off if combination of 60% member states representing 60% of EU-25 population is adopted as a basis for QMV construction. On the other hand rule applying QMV primarily to

initiatives proposed by new EU Foreign Minister is seen as a welcomed safeguard by Czech government.

4. *New tools and bodies of CFSP/ESDP* are seen as mixed blessing by Czech government and political elite in general. New Research, Development and Procurement Agency is regarded as beneficial, even though its effects on the Czech Republic and especially its defence industry could easily cut both ways. Given its size and structure, the Czech defence industry is not big enough in European terms to be given a special treatment or be automatically part of major armament cooperative projects. Czech government is above all concerned that no bitter competition in this area materializes because of the creation of new EU Agency along the lines of political disputes between the EU and the USA. Czech politicians do not want to be presented with a choice “Buy European” or “Buy American” which would be a wrong outcome, undermining flexibility and efficacy of procurement processes. Possibility to form ad-hoc coalitions of EU member states tasked by Council to carry out certain CFSP actions on behalf of the entire EU is welcomed as a new flexible vehicle for fostering various CFSP dimensions (Eastern, South-Eastern, Mediterranean, etc.) where different groups of member states see their important national interests combined with those of the EU. New EU member states could most likely utilize this new tool and demonstrate their expertise and knowledge of large parts of new neighborhood of EU-25. Solidarity clause vis-à-vis terrorist threats or civil emergencies is also acceptable and deemed a positive development, strengthened by recent experience of EU help following the terrible floods of August 2002 which affected a third of the Czech Republic, including its capital city Prague. On the other hand there are several more sensitive and controversial proposals. First is certainly the structured cooperation, where the Czech government would like to see higher threshold applied for its initiations (perhaps at 13 out of 25 member states), much more open decision-making procedures allowing easy process of joining the group by other member states at later stage, this step being based on exact and clearly defined criteria (either input or output-based) in order to prevent arbitrary discrimination of original group against any newcomers. The entire development around inclusion of this new tool into the draft EU Constitutional Treaty cast very negative light on the political motivation of its proponents, who happen to be above all the same four states (Belgium, France, Germany, Luxembourg) who met for a defence

mini-summit in Brussels in late April 2003. The same suspicion and refusal encountered the plan presented as a conclusion of the mini-summit to create a full operation headquarters for planning and commanding EU military operations. This step is by new EU member states, including the Czech Republic, widely seen as unnecessary and for majority of EU member states who are also members of NATO as a wasteful duplication in area where a fruitful link to existing NATO facilities could be easily established and do not want to invest large resources into another multinational HQs. The Czech Republic does not attach a high priority to EU military autonomy at all costs, unlike some other EU member states (above all France and Belgium).

Mutual defence clause as a voluntary commitment based on article V of Modified Brussels Treaty (forming legal foundation of the WEU) is so far seen as potentially acceptable, as long as it does not undermine NATO and is based on a open protocol attached to the new EU Constitutional Treaty, rather than being an organic part of it.

5. *New tasks of the EU (updating and broadening of current Petersberg tasks)* are seen as ambitious catalogue, which nevertheless reflects reality and major security threats and contingencies of the EU actions that it is likely to undertake in the 21<sup>st</sup> century. It is, however, not clear whether Europeans are really ready to commit necessary resources and political will to uphold those ambitions. At the high-intensity end of envisaged EU tasks lie potentially highly controversial peace enforcement operations (like *Allied Force* over Kosovo in 1999) or even combat operations of special forces (like in Afghanistan in 2001-2002) that could easily split public opinion in EU countries.
6. Overall democratic accountability is still weak in the draft EU Constitutional Treaty with very limited oversight of the European Parliament over CFSP issues, but practically no influence over ESDP issues. Even more dire future may for the Czech Republic lie in the structure of CFSP policy-making that does not enhance the influence of smaller member states, but may enhance the role of the big member states through *directoire* option. Division of Europe between big and small is historically seen in a very negative light by states like the Czech Republic, which seen a good example of *directoire* of four European great powers in 1938 in Munich to preside over its dismemberment for the sake of illusionary peace.

There are still several open questions that draft text of EU Constitutional Treaty per se cannot answer. One of them focuses on the new equilibrium that must be found in EU-25 format

between European and Atlantic dimension of CFSP/ESDP. The other pertains to the expected working habits of 25 EU member states whereby they could in CFSP opt for allowing flexible coalition- building in inter-enabling fashion rather than opting for inter-disabling approach that could very easily block CFSP activities. Political will and mood of cooperation or revenge may influence the direction of CFSP/ESDP activities at least as much as the basic legal texts of the EU.