

with internal disputes and conflicts on the other side. The authors also included here very important issues concerning the ratification of the treaty of Lisbon, which took place after the period of the Czech presidency.

Having reconstructed the course of the Czech chairmanship, in the last chapter the authors evaluated it and drew lessons for Poland, which was due to take over the presidency in the EU Council in 2011. When assessing the course of the Czech Republic's presidency, the authors adopted the right criterion of the choice of priorities and communication strategies aimed at building the best possible image. The authors do not forget to mention about the expectations towards a given presidency. However, I disagree with their statement that the smaller the country, the smaller expectations. What prevails in this respect is the country's position rather than its size and population. I do agree, however, that a period of six months in diplomacy is too short to introduce revolutionary changes in one's established premises. That is why I basically share the authors' view that the chairmanship of the Czech Republic, despite some internal clashes, should be assessed quite positively as the established goals were achieved and everything that could be done in given circumstances was actually done. However, it is also legitimate to say that all the achievements of the Czech Republic were thwarted by internal arguments and the collapse of Topolanek's government, which took place during the

presidency. It made it impossible for Prague to react quickly to emerging problems and shattered the positive image of this country in the eyes of foreign observers.

It must also be pointed out that the Czech Republic took over the chairmanship after very active France, which found it difficult to hand over the presidency. A combination of all those factors, despite the Czech Republic's numerous achievements in such a short, only six-month period, had a significant influence on the perception of the Czech presidency in the EU Council.

The work under review, because of its interdisciplinary character, may be addressed both to political scientists and lawyers who deal with the European Union issues. However, I particularly recommend it to politicians, who have been responsible for the Polish Presidency in the Council of the European Union since 1 July 2011.

■ *Łukasz Kojara*

**J. Zbieranek, B. Banaszak, *Ankieta konstytucyjna*, Instytut Spraw Publicznych, Warszawa 2011, pp. 296**

*Ankieta konstytucyjna*, edited by Bogusław Banaszak and Jarosław Zbieranek and published in 2011, is a significant contribution to the on-going debate (lasting since the establishment of the Constitution of the Republic of Poland on April 2, 1997) on the need for amending the fundamental law and the scope of these changes. As the authors indicate, the publication was a result of a research project initiated

in 2010 and coordinated by the Institute of Public Affairs, which focuses on the key constitutional issues. A number of meetings and conferences were held within the framework of the project, including a seminar devoted to investigation committees and a conference on relations between the State and the Church and religious unions. It must also be mentioned that more meetings of experts have already been planned, for example the one concerning the issue of gender parity.

The book under review is composed of the introduction, ten responses to a constitutional questionnaire, the information about the authors, and a few appendices which include constitution amendment drafts that the Polish Sejm in the 6th term was working on. This part of the book also contains a valuable study by prof. Piotr Winczorek, who analysed the constitutional system and the legislative process in Poland. However, because of the characteristics of the subject matter, it would be more appropriate to place this analysis just after the introduction and before the responses to the questionnaire.

The book under review is a result of the survey prepared by prof. Bogusław Banaszak, an eminent constitutionalist, Head of the Chair of Constitutional Law at the University of Wrocław. The questionnaire was sent to top researchers, who are authorities in the field of constitutional law. While responding to the questions included in the survey, they presented a number of interesting views on the issue of changing the

Polish constitution. Among the respondents were professors: Andrzej Bałaban, Bogusław Banaszak, Marek Chmaj, Mariusz Jabłoński, Anna Łabno, Pasquale Policastro, Krzysztof Skotnicki, Andrzej Szmyt, Marek Zubik, and Bartłomiej Nowakowski, Ph. D. Not denying the superior knowledge of those distinguished scholars, I believe that the group invited to take part in the survey is not fully representative. It is my conviction that the contribution of researchers from Cracow, Toruń, Olsztyn and Poznań would add value to the questionnaire.

Regardless of the above, it must be pointed out that the significance of the book under review lies in the fact that it makes the reader acquainted with a number of dilemmas that the Polish constitutionalists face. I find it a positive sign that so many constitutional experts got involved in the debate, although they seem to differ in their opinions. Prof. Bałaban argues that one has to remain sensitive and careful when it comes to changing a constitution. He believes that amendment drafts proposed by scholars could encourage politicians to become even more active in this field. Polish political parties do use the issue of the revision of the constitution as a tool in the political battle. They come forward with a lot of low quality proposals, not believing they will ever be approved. Their only motivation is to gain publicity and media coverage. This thesis is proved by the fact that most of these proposals have not been even formally submitted to the Sejm.

It must be pointed out that the existing constitution has been revised twice. The first revision of the Constitution of the Republic of Poland, which followed from the EU's regulations, was implemented on September 8, 2006<sup>1</sup>. (see: art. 55 of the Constitution of the Republic of Poland regarding the prohibition of the extradition of a Polish citizen and not respecting the European Arrest Warrant)<sup>2</sup>. The other revision of the Polish fundamental law was implemented on May 7, 2009, when the act on amending the Constitution was passed. It concerned art. 99, in which par. 3, which restricts voting rights, was added. At present, "No person sentenced to imprisonment by a final judgment for an intentional indictable offence may be elected to the Sejm or the Senate"<sup>3</sup>

Recently, scholars have often wondered whether the constitutional time has come. They emphasize this moment is difficult to capture in the period without revolution. Andrzej Bałaban claims that the present time is not a "constitutional moment," which would determine the need for the revision of the constitution (this view is shared by prof. Andrzej Szmyt, prof. Anna

Łabno and prof. Krzysztof Skotnicki). Instead, we should make use of the existing tools, such as interpretations made by constitutionalists or referring to binding rules of international law and the judicature the European Court of Justice. It must be noted, however, that most of the participants of the survey believe that constitutionalists' task should be to develop new solutions and to present a wide variety of options. The book under review makes the reader acquainted with a number of suggestions that scholars put forward. Although constitutional experts have rejected the idea of revising the fundamental law as a whole, no constitution is a permanent act. Too much focus on stability of its solutions at the expense of amending activity may lead to its stagnation. As a result, the constitution may lose its prestigious status since it will not reflect the current life conditions. Having this in mind, the respondents in the survey come forward with a number of proposals, such as:

- to eliminate direct elections for the President of the Republic of Poland;
- to reform the Sejm and the Senate, including the reduction of the number of their members;
- to eliminate the individual vote of no confidence towards a member of the Council of Ministers;
- to reform the institution of the state referendum;
- to adjust the scope of adjudication of the Constitutional Tribunal, e.g. through introducing maximum dead-

<sup>1</sup> Official Journal from 2006, No. 200, item 1471.

<sup>2</sup> T. Mołdawa, *Problemy konstytucyjne okresu transformacji*, [in:] J. Błuszkowski (ed.), *Dylematy polskiej transformacji*, Warszawa 2007, p. 72; M. Masternak-Kubiak, A. Preisner *Realizacja konstytucyjnego podziału kompetencji organów państwa w stosunkach zewnętrznych*, [in:] K. Wójtowicz (ed.), *Otwarcie Konstytucji RP na prawo międzynarodowe i procesy integracyjne*, Warszawa 2006, p. 135.

<sup>3</sup> Official Journal from 2009, No. 114, item 946.

lines for examining a case, eliminating the principle of discontinuation in this field, etc.;

- to eliminate or reform the State Tribunal;
- to deconstitutionalise the offices of the Spokesperson for Children's Rights and the National Broadcasting Council.

Many of the abovementioned proposals are connected with Poland's accession to the European Union. Scholars believe that this process must be given a lot of attention as if we pass over some important settlements, such as those of the Treaty of Lisbon, it will lead to gaps in Polish constitutional solutions. The participants of the survey put forward a number of proposals which are related to the European process, the most important of which are:

- to constitutionally settle the problem regarding the place of the European Union law in the Polish legal system;
- to adopt new, effective procedures of implementing EU directives;
- to specify the procedure for EU withdrawal;
- to modify art. 90 of the Constitution of the Republic of Poland;
- to reform a closed catalogue of norms of the existing law through issuing decrees and statutory instruments;
- to constitutionally guarantee that the Polish parliament will participate in the European legislative process;
- to adjust Polish regulations with respect to the prospect of euro adop-

tion, which involves eliminating the Monetary Policy Council; changes in the scope of competences of the National Bank of Poland (art. 227), which is currently responsible for implementing monetary policy and issuing money; specifying a new role and rights of the Monetary Policy Council; and establishing the procedure of making a decision on the adoption of a new currency.

To conclude, although I do understand the authors' intention to publish their book in the year marking the 90th anniversary of adopting the March Constitution of 1921, it seems there was no need to hurry. Like they say: more haste, less speed. As a result, the book is full of spelling, grammar and publishing errors, which makes it difficult to read for people who pay a lot of attention to linguistic accuracy. Although public opinion polls show that this is not considered to be a key issue nowadays, a publication which includes views of so many eminent scholars should be free of such deficiencies.

Finally, I would like to add that the book should be attractive both for students interested with constitutional matters and for academic lecturers. It may also be useful for politicians, journalists and feature writers. It is my conviction that it may provide a significant contribution to the on-going debate on whether and how to change the Constitution of the Republic of Poland.

■ *Joanna Marszałek-Kawa*