

THE LISBON TREATY – A BASIS FOR THE EUROPEAN UNION IN THE 21ST CENTURY

Peter R. Weilemann

Since December 1, 2009 the Lisbon Treaty has formed a new legal basis for the European Union. It is the result of an ambitious project that began life eight years ago as the idea of a European constitutional treaty, and had to overcome many hurdles on its way. Speaking of the treaty, former EU Parliamentary President Hans-Gert Pöttering said it created "a good basis for the future of the European Union and its almost 500 million citizens in 27 countries in the 21st century." So what were the motives and difficulties behind the correctly-titled "Treaties on the European Union and on the functioning of the European Union"? What are the fundamental changes in the Lisbon Treaty? What are the potential opportunities and pitfalls associated with its implementation?

Under the new treaty, the European Parliament is, with just a few exceptions, now on equal footing with the Council of the European Union in legislative procedures. In future the Parliament and Council will make joint-decisions on the bloc's budget. The Parliament's competences in the areas of common agricultural policy and judicial and police cooperation have been extended. Its role in foreign policy and international agreements, especially in trade policy, has been stepped up. The Parliament can initiate amendments to the treaty and takes part in relevant governmental conferences. The European Parliament also has improved powers of control over the Commission. In future, the Commission President will be elected on the recommendation of governments.

But it is not only the European Parliament that has been granted more decision-making powers. The potential for national parliaments, and in some cases the regional or federal state parliaments, to influence decisions taken by the European Union has also increased. The most important change is a procedure which allows them to take action against regulations from Brussels which they suspect constitute an infringement of the subsidiarity principle. The Commission is obliged to review its proposal (yellow card) if a third of the member state parliaments agree there is a case. If a majority of national parliaments (each member state is allocated two votes) finds itself in agreement, and the European Parliament and the Council also agree, this can lead to the failure of draft legislation. The information rights of national parliaments in the area of domestic policy, in amendments to the treaty and the launch of accession talks are now enshrined by the treaty.

The treaty also fundamentally strengthens the rights of EU citizens. There was lengthy debate concerning the inclusion of the Charter of Fundamental

Rights of the European Union in the treaty itself. Now it is only attached as a protocol. However several member states – Britain, Poland and the Czech Republic – reject its application in their countries. But the Charter remains binding for 24 member states, providing citizens with improved legal protection regarding the actions of the European Union. With the dissolution of what was known as the three pillar structure of the Maastricht Treaty, and full integration of home affairs and judicial policy, the EU was able to provide a better legal framework with which to enable citizens to take advantage of the bloc's freedom, justice and security. The authors of the constitutional treaty also incorporated the idea of the citizens' initiative into the new treaty, giving the people of the member states the chance to call directly on the Commission to bring forward an initiative of interest to them and to have proposals heard. One million signatures are required to start such an initiative, and a few ground rules have yet to be laid down before this right can be exercised.

A fundamental element of the new treaty are the improved conditions for creating a more effective strategic role of the European Union in international politics. Even today one of the great deficits of the European Union is, to a certain extent, that the foreign policy clout of a unified Europe does not match that of its economic significance. The new treaty aims to address this weakness with three fundamental changes. It creates the post of a High Representative for Foreign Affairs and Security Policy combined with the position of Vice President of the European Commission. It also provides a foreign service which can help to shape EU foreign policy goals in a more coherent way. Finally, it improves the potential for cooperation in security at the highest political level through a consistent structure of cooperation.

The High Representative and Vice President of the Commission is currently a woman. She heads not only the foreign policy service of the European Union but also heads the Foreign Affairs Council. This now functions independently of the General Affairs Council and distinguishes itself in the fact that unlike other councils, it does not meet under the chairmanship of the rotating presidency. It is hoped that the installation of a High Representative and Vice President will give the European Union a more recognizable face in foreign policy.

But it also throws up new questions of institutional authority. Even if the Convention's intention was to streamline the leadership structure of the EU, four top posts stand out under the current treaty: along with the permanent Council President, the Commission President, the President of the European Parliament, there is now the post of High Representative and Vice President of the Commission. But although this appointment was initially publicly assigned by the Commission President as the EU's Foreign Minister, this was contradicted a little later by the then-Swedish EU Council president who is-

sued a statement denying such a post existed. The role of national presidency also remains undefined. The rotating presidency of the European Council will no longer exist in this form, but the institution of national presidency will remain. The presidency trio (Spain, Belgium and Hungary) from January 2010 until June 2011 has made it clear that it intends to pursue a full agenda. All councils meet under the chairmanship of this rotating presidency, with the exception of the General Affairs Council, where it is unclear who represents the national governments, and the Foreign Affairs Council which is chaired by the High Commissioner. It can be assumed that none of the heads of government whose country takes over the rotating presidency for a six-month stint will hide their light under a bushel. The Council of the European Union together with the European Parliament are the EU's legislative bodies. The permanent President of the European Council will have to display an immense talent in bringing all of these threads together. That's why the election of the current holder is so important. But if the interaction between the new leadership fails to function as planned, if the chemistry between people fails, the treaty's stated ambitions of a clearer definition of responsibilities, greater transparency and the display of unity could easily be in jeopardy.

While the European Parliament long ago began to adjust to the changes enshrined by the treaty and the increase of power that has accompanied those changes, it appears that national parliaments are still unprepared to deal with the new possibilities. The Commission's obligation to provide information to the national parliaments enshrined by the new treaty has already been in place for several years. But national parliamentarians have so far largely failed to exercise their right to employ this information in reacting to initiatives by the Commission. For some time now, there have been various sessions at parliamentary president or parliamentary party leader level in addition to the longstanding meetings of the Conference of Community and European Affairs Committees of Parliaments (COSAC). But in practice these meetings have yielded little in the way of political results.

With the implementation of the Lisbon Treaty a new era has begun in the history of unified European policy. After almost three decades of institutional reforms a new phase of consolidation must now begin. The optimistic formula of "simultaneous expansion and consolidation" that defined European policy in recent years has finally reached its limits, at least as far as the hearts and minds of most European citizens are concerned. The Lisbon Treaty offers an opportunity to redress this imbalance and to re-consolidate the acceptance of European unification. If this is to succeed, three things must be taken into consideration. The treaty must be implemented swiftly whilst at the same time embodying the spirit of the Convent's founding fathers. It remains to be seen how the treaty is put into practice. The broad majority of the 500 million Europeans living in the EU support the idea of a unified Europe. The

question of accepting European unification is a different one today. This is where the treaty's biggest potential lies. It equips the decision-makers with the instruments they need to enable them able to build on the well-being and security of the European Union, and to meet the challenges of globalization. And it strengthens the rights of EU citizens, not by speaking for them, but by handing them responsibility for themselves and the community. It is now up to both sides to make correct use of those opportunities.

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