

EUROPEAN CONSTRUCTION AFTER THE TREATY OF LISBON

Kristina Jance¹

¹ Lecturer, Faculty of Law, University of Tirana

Edvana Tiri²

¹ Lecturer, Faculty of Law, University “Sevasti and Parashqevi Qiriazi”

Abstract

This article constitutes a contribution to discussion on main reforms introduced by the new treaty. European Construction defined as a process *sui generis* still raises questions about the future of the institutional organization and about European Union enlargement.

Our study is based on a wide research Endeavour, whose purpose has been to encompass multiple points of view on the future of the European Union, seen from the perspective of the Treaty of Lisbon. Our analysis will be focused on the solution found by the Treaty of Lisbon which involves a largely recover on the content of the European Constitution.

On 1 December 2009, the Treaty of Lisbon replaced the Treaty of Nice as the legal foundation of the European Union. The European construction materialized by the European Union, as well as Dante’s poem “The divine Comedy”, represents a colossal construction of human action and spirit which transcend the historical and geographical determination. In the present European Construction may represent the prefiguring of the most remarkable society and order that eliminates wars, insecurity, and maintenance peace and promotes well being for all European nations, representing, and the cathedral of this century. What are the progresses obtained by the European Union during its long march towards the Political Union? During its 50 years of existence, the European Union contributed to bring peace on the European continent. It has its own history, its own institution, its own space that does not stop on extending, that holds today 27 states and tomorrow over 30 states.

Keywords: *European Construction, democracy, unity, European Parliament, European Council.*

Introduction

The European idea is launched after the end of World War II. At a meeting that took place in Zurich in Switzerland, on the 19th of September 1946, Winston Churchill the head of the British government speaks of the necessity of Building the United States of Europe, taking as model the federation represented by the USA, with the purpose avoiding the implications the European states in a new world war. On this occasion the idea of creating a European Community at political level in order to avoid a new conflict between European states and at economical level in order to reconstruct the economies of the region's countries. Putting this project into practice has proven to be very difficult. The setbacks of the different trials have not been few. In order not to carry the risk to compromises forever the ideas of European unity and stability the founders of the European Communities foresaw the progressive realization of certain structures that should lead to the increase of the de facto solidarity between the European economies and states. The model concretized firstly in the merging of the European markets with the purpose of accomplishing in the long run the political integration and the realization of the Political Union.

Firstly the Europe-Market has been accomplished and the European Power will be accomplished –if possible.

The European Union can be defined as a unique structure that concretizes the common aspiration of the sovereign nations of work and to live together. During the last 50 years these nations have understood the advantages by the way of direct contacts between them, but also the constraints of the European Integration process. From the creation of the ESCR in 1952 the countries of the European Communities gave step by step a continental dimension to their economic and more recently to their political structures. For the citizens of the Union, this process means a greater liberty of the movement, by an increased possibility to choose consumer goods and services. Besides all restrictions the European integration maintains the richness of cultures, languages and traditions of Europe's nations. New structures that are built do not imply the destruction of the traditional ones. At the dawn of what may be called the most era of its history – the European reunification – the EU benefits from a strong support from the side of its citizens. Moreover the EU exerts a great power of attraction for all around it. EU is considered more and more the principal pole of prosperity, stability, security, and progress in Europe and in the world.

The year 2009 was a new beginning for the European Union by signing and ratifying the Lisbon Treaty, but also had some crucial events to commemorate the history of the old continent: the 70th anniversary of the outbreak of the Second War World, 60 anniversary of the Council of Europe or 30 years when the European Parliament is directly elected by the citizens of the Member States. But 2009 was to recall and 20 years after the collapse of the totalitarian system of European states, the Berlin Wall fell and bloody revolution in Romania. 2009 can be characterized as a bridge between past and future, because the European Union has the chance of a new beginning.

1. European Union – an ensemble of institutions

In the specialty literature as well in the mass – media operates frequently with certain concepts that evidence the complex structure and the dynamics of the European construction process: community institutions and community organs and organisms.

The concept of the community institutions is characterized by the following specific elements:

- Limited by their competences they have the role of the functioning rules of the communities;
- In the areas they act they are endowed with the power to pass decisions and to impose them on the member states;
- From this perspective they represent a separation from the traditional schemes of international cooperation, where the execution of the treaty's provisions are subjected to the availabilities of the signatories the national sovereignty being the main cause of the called "treaties paralysis".
- By their nature they represents the interest of the states (the Council) the interests of the Communities (the Commission) interests of the people (the parliament) and the interests of law (the Court of justice)
- They benefit from a certain judicial, administrative and financial autonomy as a corollary of their functional specificities.

Due to the institutional not at all to the functional fusion of the driving organs of the European Construction organized by the Brussels Treaty, due to which all three treaties are simultaneously valid the European Parliament adopted on February 16th 1978 a resolution referring to a single name for the Community.

The realization of the tasks given by the community is ensured by the fundamental institutions: The European Community the Council of Minister the Parliament and the Court of Justice.

The institutional organization is very original. The supranationality appears together with the ESCC and will know a defeat with CED and will be started afresh by Maastricht.¹

The Council of the European Union ("Council of Ministers" or "Council") is the Union's main decision-making body. Its meetings are attended by Member State ministers, and it is thus the institution which represents the Member States. The Council's headquarters are in Brussels, but some of its meetings are held in Luxembourg. Sessions of the Council are convened by the Presidency, which sets the agenda. The Council meets in different configurations (ten in all), bringing together the competent Member State ministers: General Affairs; Foreign Affairs; Economic and Financial Affairs; Justice and Internal Affairs; Employment, Social Policy, Health and Consumer Affairs; Competitiveness; Transport, Telecommunications and Energy; Agriculture and Fisheries; Environment; Education, Youth and Culture. The "General Affairs" Council is responsible for coordinating the work of the different Council formations, with the Commission's help.

¹ Silasi G, The european Union or the new Divine Comedy, Editura Universitati de vest , Timisoara 2005, pg.10.

The presidency of the Council is held by groups of three Member States for a period of eighteen months. Each member of the group holds the presidency for all the Council formations for six months, with the exception of the Foreign Affairs formation which is presided over by the High Representative of the Union for Foreign Affairs and Security Policy. During this period, the other members of the group assist the President in office with the implementation of the joint program. Each European Union country holds the presidency of the Council for a period of six months, in rotation. A new system for the presidency of the Council has been in force since January 2007. The three presidents draw up a joint draft program for their 18-month period in office.

Decisions are prepared by the Committee of Permanent Representatives of the Member States (Coreper), assisted by working groups of national government officials.

The Council, together with the European Parliament, acts in a legislative and budgetary capacity. It is also the lead institution for decision-making on the common foreign and security policy (CFSP), and on the coordination of economic policies (intergovernmental approach), as well as being the holder of executive power, which it generally delegates to the Commission.²

The European Parliament (EP) is the assembly of the representatives of the 500 million Union citizens. Since 1979 they have been elected by direct universal suffrage. The Lisbon Treaty set the total number of EP seats to 751. The number of MEPs per country is set by a European Council decision adopted unanimously on the EP proposal. No country may now have less than 6 or more than 96 MEPs.³

The European Parliament's main functions are as follows:

- legislative power: in most cases Parliament shares the legislative power with the Council, in particular through the ordinary legislative procedure.
- budgetary power: Parliament shares budgetary powers with the Council in voting on the annual budget, rendering it enforceable through the President of Parliament's signature, and overseeing its implementation
- power of control over the Union's institutions, in particular the Commission. Parliament can give or withhold approval for the designation of Commissioners and has the power to dismiss the Commission as a body by passing a motion of censure. It also exercises a power of control over the Union's activities through the written and oral questions it can put to the Commission and the Council. And it can set up temporary committees and committees of inquiry whose remit is not necessarily confined to the activities of European institutions but can extend to action taken by the Member States in implementing European policies.

The Lisbon Treaty strengthens the role of the European Parliament by placing it on an equal footing with the Council of Ministers. Namely, the Lisbon Treaty:

² http://europa.eu/legislation_summaries/glossary/eu_council_en.htm, clicked on 25.04.2013.

³ http://europa.eu/legislation_summaries/glossary/european_parliament_en.htm clicked on 26.04.2013.

- extends the ordinary legislative procedure (ordinary legislative procedure) to 40 new fields including agriculture, energy security, immigration, justice and home affairs, health and structural funds;
- reinforces the role of the Parliament in the adoption of the EU budget. The distinction between 'compulsory' and 'non compulsory' expenditure is abandoned. The European Parliament is now responsible for the adoption of the entire budget together with the Council;
- enable MEPs to give their consent on a wide range of international agreements negotiated by the European Union such as international trade agreements;
- introduces new rights to be informed on the activities of the European Council, the rotating Council presidency and the Union's external action;
- gives the European Parliament the right to propose changes to the Treaty;
- improves its power of scrutiny by giving it the responsibility to elect the President of the Commission, and approve the Commission members by a vote of consent.

The Court of Justice of the European Union (CJEU), created in 1952 by the Treaty establishing the European Coal and Steel Community, comprises the Court of Justice, the General Court and specialised courts. It ensures compliance with the law in interpreting and applying the Treaties. It comprises one Judge per Member State and eight Advocates-General. The number of advocates-general may be increased to 11 at the request of the CJEU. The Judges and Advocates-General are appointed by common accord of the governments of the Member States for a renewable term of six years. They are chosen from the lawyers who possess the qualifications required for appointment to the highest judicial offices in their respective countries. A panel consisting of seven persons from European or national judicial institutions is tasked with providing an opinion on the nominations made by governments for the posts of Judge or Advocate-General (Article 255 of the Treaty on the Functioning of the European Union (TFEU)). Every three years the Judges and Advocates-General are partially replaced. The Judges of the Court elect the President of the Court from among their number for a term of three years. The President manages the work and services of the Court and chairs the hearings and deliberations of the larger formations of the court. The two main functions of the Court are to:

- check whether instruments of the European institutions and of governments are compatible with the Treaties (infringement proceedings, proceedings for failure to act, actions for annulment);
- give rulings, at the request of a national court, on the interpretation or the validity of provisions contained in Community law (references for a preliminary ruling).

The Court may sit in chambers (of three to five Judges), in a Grand Chamber (thirteen Judges) or as a full Court.

2. European Union - a construct based on shared values

We wondered if the European Union is a community based on shared values, and if they are detectable in the body text primary Community law. Lisbon Treaty strengthens the common values that bind the EU citizens: freedom, security and prosperity. In this equation makes its place the solidarity, which actually expresses a means by which the EU can achieve its goals. Through solidarity, mutuality a society can achieve a high degree of prosperity and security, and it is guaranteed to their citizens. Solidarity is a vague concept, a darling of politicians in speeches, but almost forgot about them when to put into practice. By numerical analysis, we identify that the text of the Lisbon Treaty the term "solidarity" is identified by almost twenty times, while in the consolidated version of Nice, this word is only used six times.

Each EU Member State must respect the fundamental values of this community: human dignity, freedom, democracy, equality, the rule of law and protection of minorities. Thus the social needs of citizens are equivalent rank as economic targets of the Union, which is the next step towards forming a political union⁴

By modifying the new treaty, the European Union gain additional powers in the areas of freedom, security and justice. Sectors such as protection, intervention and health, are placed in community construction, precisely because the EU will be better prepared in the such events and will protect the interests of European citizens.

The community project was in the first pass, which almost always raise counter to the process of European integration. An idea is what appears in the discussion of the 27 Member States do talk about loss of identity facing not only citizens, but also forms the states. This fear is in our view a pseudo-problem. Returning to the fear of loss of national identity of the Member States, they are protected even art. Article 4. 2 of the Treaty on European Union, which at the outset would like to settle this. Text of the Treaty shows that the EU protects national identity states that compose it, giving them freedom to express themselves according to political and constitutional structures, and is also protected and ways of managing local and regional problems of Member States.

The European Union is an international organization, but not classical, is a construction of "sui generis" and Member States do not give their full sovereignty to the Union, but only to certain sovereign and very accurately rights.

National identity in the context of European integration has no cultural or historical meanings, but some politico-legal, expressed by force to negotiate and impose certain views and opinions.

European Community concept has evolved, so that much tougher negotiating contemporary states ceding certain sovereign rights, giving very clear and exactly what powers it enjoys exclusive institutions and bodies of the European Union.

The Lisbon Treaty provides limited powers enjoyed by the Union, the powers must be interpreted strictly, so bodies or other community structures can not provide powers. Member States have, by this provision, the true power, these are the ones that actually decide which is the degree and speed of work on European integration.

The division of powers between the European Union and member states,

⁴ Jadaneant Alexandru Momentul Lisabona – Un nou început pentru construc ia european , cuprins nr.147.

is based on some principles. The most important set of rules in this context can be found in Art. 5 and in Art. 10 TEC where principles of limited conferral, subsidiarity, proportionality and loyalty are established. The most important feature of the Nice system is the lack of strict definition of powers conferred on the EU. In the second and the third pillars the situation is also unclear.

The Treaty of Lisbon is a great step towards clarification of division of powers. In Art. 3a (4) and in Art. 3b (5) TEU the four main principles are upheld. Declaration No. 18 in relation to the delimitation of competences and Declaration No. 24 concerning the legal personality of the European Union are added to underline the role of member states in the definition of conferral of powers. The Protocol on the application of the principles of subsidiary and proportionality emphasizes the role of member states' internal bodies, first of all national parliaments, in EU decision-making process.⁵

Conclusions

The European Union is a formula as many others that have passed through the European space. Formulas come and go, nations stay; thus it is best to regard these formulae realistically and not to mystify it or by asking more of it than it express at each moment of its evolution. The Lisbon Treaty provides a more democratic and institutional framework legitimate powers to Parliament strengthening European and national parliament's area of freedom, security and justice. A building such as the European one should be characterized by efficiency and flexibility of institutions which perfects the European project. Both the structure of the European Parliament and the European Commission will undergo major changes with the start of the 2014, the number of MEPs will be locked at 750, national contingents will be renegotiated in order to improve the representativeness of the vote.

In conclusion, the Lisbon Treaty marks an indisputable progress constitutionalization of the European social model by formulating goals and instruments, and by drafting new clauses social issues which were not before.

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⁵ Piotr Tosiek , The European Union after the Treaty of Lisbon– Still an Intergovernmental System, pg10.

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