

# EUROPEAN INSTITUTIONS' REFORM ACCORDING TO LISBON TREATY

**Cebuc Maria - Iuliana**

*"Constantin Brâncoveanu" University – Pitești, Faculty of Management Marketing in Economic Affairs - Rm. Vâlcea, e-mail: iuliacebuc@yahoo.com, Nicolae Bălcescu Street, No. 39, Râmnicu Vâlcea, Vâlcea, tel. 0729080711*

**Petria Licuța**

*"Constantin Brâncoveanu" University – Pitești, Faculty of Management Marketing in Economic Affairs - Rm. Vâlcea, e-mail: licutapetria@yahoo.com, Nicolae Bălcescu Street, No. 39, Râmnicu Vâlcea, Vâlcea, tel. 0751125689*

*Lisbon Treaty's conclusion whose provisions are to become applicable on 1 January 2009 after its ratification by the member states is going to have major effects as to the European accession, reshaping the European Union's form and ensuring functional decisional devices of its institutions, at the same time generating a closer approach of the accession process to European citizens. The European Union is becoming a supranational organization that is going to benefit from clearly stated function rules and principles necessary to world coherent progress whose abilities are specified in compliance with the member states.*

*Keywords: institutional reform, the Union's High Representative for Foreign Affairs and Security Policy, the president elected for the European Union Council*

The European Union's legitimacy derives from the democratic values it promotes, the objectives it aims at, and the instruments and competences it has. However, the European project's legitimacy also derives from the existence of democratic institutions that are transparent and efficient. The institutions set up during more than 50 years reflect the time evolution of the European Union's structure and are currently undergoing a reform process generated both by internal and external challenges.

The institutions come forth as a result of a specific economic and political context that has produced them and which must be able to use and shape them under the influence of political purposes they should reach. That holds true especially for the European Union and its institutions whose role is not mainly to lead a political entity but to enhance it.

The opinion that European institutions do not work efficiently, cannot cope with the internal and external challenges faced by the European Union, cannot efficiently accomplish their basic functions and cannot rapidly adapt to the ever-changing world has not occurred over the last years. Neither have the need and the idea to have a full institutional reform without precedent. In the late 90's, the doubtful legitimacy of European institutions was presented as part of a constitutional crisis, the idea of institutions' reform being revived especially between Maastricht Treaty and Nise Treaty adoptions and meaning the main objective of the 2004 Constitutional Treaty, not ratified by the member states. In this context, in order to find solutions and meet citizens' requests, it is necessary that a collective effort should be made at European level, the community setting-up should have efficient and coherent instruments adjusted not only to the functioning of the newly-enlarged union from 15 to 27 member states but also to the rapid changes of the world nowadays.

Lisbon Treaty's coming into force (on 1 January 2009 after its ratification by the member states) is to ensure European institutions' proper working after the accession of the states in Central and Eastern Europe, with the European Union on its way to become a supranational organization that will benefit from clearly stated working rules and principles that are a must in the world's coherent progress.

Lisbon Treaty does not fundamentally change the Union's institutional structure which is still going to rely on the Parliament, Council, Commission triad taking a significant share of the reforms foreseen by the 2004 Constitutional Treaty not ratified by the member states. Nonetheless, the Treaty introduces a few new

elements meant to improve institutions' efficiency, coherence and transparency so that they could better meet the new internal and external requirements.

Thus, according to the provisions of Article 13 (in current numbering), the Union is going to have an institutional framework meant to ensure the promotion of its values, the accomplishment of set goals, the support of its own, its citizens' and its member states' interests, providing coherence, effectiveness and continuity in its policies and actions. The Treaty increases the number of European institutions to seven: the European Parliament, the European Council, the Council, the European Commission, the European Union's Court of Justice, the European Central Bank and the Court of Accounts.

The European Parliament's role (Article 14) is restated by Lisbon Treaty as the institution benefits from extensive legislative, budgetary and international agreement approval competences. The Treaty also modifies the Parliament's structure, that is the number of parliament members elected by universal, direct, free and secret voting by member states' citizens for a five-year mandate cannot exceed 750 (751 with the president) and the distribution of seats by member states is going to be proportionally decreasing with minimum six members from every member state. In other words, the parliament members coming from the countries with the largest number of inhabitants are to represent a greater amount of citizens than those from less inhabited countries. The Treaty also stipulates that every member state will have at least six seats and ninety-six at most in the Parliament. The same stipulates that the next Parliament's make-up is to be decided upon by the European Council that must make a decision in this respect based on the Parliament's unanimously voted proposition.

Article 15 in Lisbon Treaty states that the European Council's role is to provide the Union with the necessary incentives for its growth, defining the general political orientations and priorities without exerting legislative functions. The European Council is made up of the state and government presidents, its president and the Commission president. The novelty of current norms regarding the Council's president is that, unlike previous community regulations according to which the Council's presidency was exerted by each member state in turn for six months, now the president of the European Union Council is elected for a two-year and a half mandate with the possibility of mandate renewal only once. Having in view the growing complexity of European issues ensuing both from the Union's enlargement from 15 to 27 countries as well as from increasing the number of European Union competence fields, the six-month mandate used to be too short. The new mandate duration will allow the governing member state to better coordinate its strategies and pursue their effects.

The president is due to prepare and stimulate the Council's works ensuring their continuity, to take actions in order to facilitate the Council's cohesion and consensus with the duty to report to the European Parliament after each Council's meeting. As far as foreign relations are concerned, the president is due to represent the Union at world level without getting involved in the attributions of the Union's High Representative for Foreign Affairs and Security Policy.

The Treaty asserts that the Council of Ministers and the Parliament together exert the legislative and budgetary functions defining the Union's policies and coordinating the decision making in accordance with the directions provided by treaties. The Council of Ministers' role remains largely unchanged. The Council has meetings within various groups set up in compliance with the Treaty's provisions, and the Council of General Affairs prepares the Council's meetings and pursues the achievement of steps in collaboration with the European Council's president and the Commission. The Union's foreign actions are set up by the Council of Foreign Affairs.

The Council of Ministers' presidency except the Council of Foreign Affairs is ensured by turns by member states' representatives for at least one year, relying on the rules set up by the European Council.

According to Article 18, the European Council, deciding by qualified majority and with the commission's president agreement, appoints the Union's High Representative for Foreign Affairs and Security Policy, being able to decide his mandate cancellation in the same way. The High Representative is in charge of the Union's foreign and common security policy contributing by suggestions in the drafting and accomplishment of the policy. The High Representative presides the Council of Foreign Affairs. The High Representative is one of the Commission's vicepresidents and ensures the coherence of the union's foreign actions. When exerting his responsibilities within the Commission and only regarding his responsibilities, the High Representative is subject to the procedures of the Commission's functioning regulations if it complies with Indentations (2) and (3).

The major change brought about by Lisbon Treaty refers to the decision-making process. Firstly., the Council is due to make decisions by qualified majority except when the treaties provide another procedure such as unanimous voting. In practice, once Lisbon Treaty comes into force, qualified majority voting will be applied to numerous activity fields (for instance, immigration or culture).

Lisbon Treaty simplifies the voting system so that it is necessary that 55% of the member states (15 out of 27) be in favour of a decision in order to adopt it. The states should account for at least 65% of the EU's total population as this requirement reflects the Union's double legitimacy which will lead to enhanced transparency and efficiency. The new calculation method will be supplemented by a device similar to the "Ioannina compromise" which should allow a small number of member states (close to blocking minority) show their disagreement with a decision. Thus, the blocking minority must include at least four Council members, otherwise it is presumed that qualified majority could be settled. In such a situation, the Council will have to do everything in its power to duly reach a satisfactory solution for both parties.

Yet, the change in the voting system will not come into force before 2014 as it is one of the conditions imposed by Poland in order to sign the Treaty. Another concession obtained by Polish leaders provides that an EU decision cannot be changed without unanimous votes which is practically very difficult. Thus, despite the voting system change, EU leaders have allowed the maintenance of a significant obstacle in the decision-making process. By derogation from Article 16, Indentation (4) in the Treaty regarding the European Union, starting on 1 November 2014 under the reserve of the directions set up by the Protocole on transitory regulations, if the Council does not make decisions obeying the Commission's or the Union High Representative's propositions, the qualified majority can be defined as equal to at least 72% of Council members representing the participating member states that account for at least 65% of the Union's population.

According to Article 17, the Commission is a collaborative body that promotes the Union's general interests and takes the proper steps in this respect ensuring the implementation of treaties and steps adopted by institutions for their purposes. It also has the ability to execute the budget and manage the community programmes by coordination, execution, administration according to the treaties' directions.

Except the common foreign and security policy, and other cases provided by treaties, it ensures the Union's foreign representation, adopts the initiatives of the Union's annual and multiannual scheduling with a view to conclude interinstitutional agreements. The Union's legislative acts can be adopted only at the Commission's suggestion except the case when the treaties provide otherwise. The other acts are adopted at the Commission's suggestion if the treaties stipulate that.

Until 31 October 2014, the Commission is made up of a resorter from each member state, including the president and the High Representative of the Union's foreign affairs and security policy who is one of its vicepresidents. After 1 November 2014, the Commission is made up of a large number of members, including the president and the High Representative of the Union's foreign affairs and security policy, accounting for two thirds of all member states as long as the European Council does not want to change that number, by a unanimous decision. The Commission members are elected from among the member states' resorters according to an even rotation system among member states to reflect the geographic and demographic diversity of all member countries. The system is agreed upon by the European Council that unanimously decides according to Article 244 in the Treaty regarding the European Union's functioning.

Lisbon Treaty sets up the new framework of European law courts made up of the Court of Justice as supreme community court, the Tribunal (the current court of first instance) and specialized tribunals, achieving a better distribution of jurisdictional functions and setting up profile courts in different fields. Thus, the Treaty's guidelines contribute both in enlarging the Court of Justice's current competences and in their adjustment to the Union's new competences mainly in relation with obeying the fundamental rights when exerting them.

By the guidelines of Article 263, TFUE first paragraph, they regulate the enlargement of the Court of Justice's competences regarding the acts adopted by the European Council, yet this competence is limited if contesting a European Council act by which they find that a member state seriously and repeatedly infringes the European Union's principles. The Court also acquires enhanced competences to control the guidelines on the implementation of foreign policy and common security, to make a decision about decisions' lawfulness that provide restrictions adopted by the Council for the purpose of that policy against individuals and businesses. As to obeying the fundamental rights, by admitting the juridical power of the Fundamental Rights Charter, the Court will have the chance to act as control instance only if it is

summoned by an individual's or business's lawsuit whose purpose is to cancel acts of Union institutions that regard them directly.

The directions of current treaties referring to the European Central Bank (ECB) and the Court of Accounts have not changed their roles or make-up modality.

In conclusion, it can be stated that Lisbon Treaty's novelties modernize the Union's institutions and decision making, providing a beneficial functioning framework both for the Union in its whole, and its member states and citizens, granting the opportunity to get more involved in the Union's activities. The Lisbon Treaty is a document which will enable the European Union to tackle the common European challenges in the 21st century with more efficiency. The functioning of the EU will become more efficient not only within the Union, but also in its external relations. Besides this increased efficiency, the Treaty will bring more transparency and democracy to the Union

## **Bibliography**

1. Anghel M. Ion – The European Union's Competences and Juridical Character, Lumina Lex Publishing House, Bucarest, 2007;
2. Corbelt Richard, Jacobs Francis, Shakleton Michael – The European Parliament, 6th Edition, Monitorul Oficial Publishing House, Bucarest, 2007;
3. Issac Guy – Droit communautaire general, Armand Colin Publishing House, Paris, 1998;
4. Iancu Gheorghe – Constitutional Law Institutions in the European Union, Lumina Lex Publishing House, Bucarest, 2007.
5. Van Raepenbusch, Sean – Droit institutionnel de l'Union et des Communnautes europeennes, De Boeck Universite Publishing House, 2001;
6. Lisbon Treaty