

THE LISBON TREATY – INSTITUTIONAL CHANGES AND UNIQUE VALUES

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Abstract: *Historically, the process of reform and integration of member states within the European Union, deepening of relations in both political and economic sense, and the component expansion is taking place more than half a century. A careful analysis of the way of functioning and by comparison with the EU national parliaments, as it is today, contains elements of the federation, confederation, and international organizations. Essential definitions are the objectives of the Member States, their strategic orientation, and determination of the minimum interest that is common to all, and the ways and mechanisms of achieving them. This is corroborated by the formation of mutual bodies acting, both within the Union, and in areas of common foreign and security policy. The Lisbon Treaty provided mechanisms to achieve integration and unique values through the reform of institutions.*

Keywords: *Lisbon Treaty, the European Union, the objectives of the European Union, European Union institutions, the legal nature of the European Union*

INTRODUCTION

The Lisbon Treaty was signed on 13 December 2007 between twenty-seven EU member states. In order the contract came into force, it must be signed by all member states, and states had the opportunity to determine the manner in which the ratification will take place, in accordance with their national law, whether citizens will come out for a referendum or the national parliaments. Ireland is the only country that has chosen as a way of ratification, immediately declaring of citizens in a referendum, while the remaining twenty-six states have chosen to declare the ratification by national parliaments. In a referendum held in Ireland in June 2008, more than half rejected the Lisbon Treaty, which created a new neighborhood in the section of the process of uniting Europe. Certain concessions to the Republic of Ireland regarding to military neutrality and abortion, the number of commissioners and tax rates; to Poland regarding the exemption of members of the Charter of the restitution of property, and to the Czech Republic, the Treaty has entered into effect in 2009.

FEATURES AND INSTITUTIONAL CHANGES

The Lisbon Treaty is essentially based on the solutions of proposed agreement on the Constitution of the European Union, which failed due to fact that France and Netherlands didn't ratify it in 2005. The essential difference is that the Constitution should replace everything up to now, existing treats, and the Lisbon Treaty only

complements them. Based on this, the Union will get a legal framework and necessary mechanisms to be able to effectively confront the challenges ahead, both at the domestic and international level to respond to the needs of their citizens.¹⁰³

Some legal writers say that careful analysis of the Lisbon Treaty, one can establish that its content is essentially the same as the contents of the Constitutional Treaty. When this was done so that it can be difficult to spot. Although the constitution carefully avoided the renewed agreement with the EU Treaty on European Union mode is nothing more than the introduction of a new constitutional order of the European Union.¹⁰⁴

According to the preamble of the Treaty, the Union is based on cultural, religious, and humanist inheritance of Europe. Article 1 of the Treaty underlines that the EU Member States have transferred competence to realizing their common goals and therefore highlights the primacy of contracting national law. Since 2004, the European Union is no longer a community of citizens and the state, but the High contracting parties, which have established the Union. Unique legal personality of the European Union, as in other former European communities is expressed in two parallel tracks: within the national legal system and the level of international legal order.¹⁰⁵ In this respect, the Lisbon Treaty is explicit and it defines to Union formal characteristics as legal entity with all rights and obligations that derive from that status. So, in the territory the Union enjoy the broadest legal and business capacity, which is recognized by their national law legal entities, and it can enter into contracts with individuals and corporate entities, to acquire movable and immovable property and to be a party to proceedings in the courts of the European Union.¹⁰⁶ In terms of international legal personality it is not specifically regulated, namely the Lisbon Treaty contains no explicit provision and subjectivity in international law, but there are provisions that indicate that European Union may conclude international agreements when it is foreseen by the founding treaties, or where necessary to implement the policy and implementation objectives of the Union.

The aim of the Lisbon Treaty in terms of institutional mechanisms is to ensure continuity of current policies and improving the value, efficiency, and compliance to safeguard the interests of member states and their citizens. Now, with seven major organs, the European Parliament, European Council, Council, Commission, Court of Justice of the European Central Bank, and the Accounting Court and changes in body composition and functioning of the EU is able to respond to internal and external challenges and to function efficiently enough.

¹⁰³ J. Čeranić, „Ugovor iz Lisabona: Ka efikasnijoj Evropskoj uniji“, Pravni život br.13, Beograd, 2008, str. 808

¹⁰⁴ T. Opperman, J.Čeranić, „Evropska Unija iz Lisabona“, Pravni život br.13, Beograd,2008, str.799

¹⁰⁵ Z. Radivojević, V. Knežević - Predić, „Struktura Evropska unija posle lisabonskog sporazuma“, Pravni život br.12, Beograd, 2010, str. 457

¹⁰⁶ Članovi 47. Ugovora o Evropskoj uniji i 355. Ugovora o funkcionisanju Evropske unije.

When it comes to the area of security and justice freedom, i.e. the three pillars of cooperation, the same rules as when it comes to other communitarized policy. Some exceptions to this rule are predicted, related to the initiative, which has so far had only the Commission, now belongs to, under certain conditions, to member states too. In the area of judicial cooperation in civil topics, when it comes to family and inheritance law, decisions are still made by unanimous vote. An exception is in the area of freedom, safety, and justice, Republic of Ireland and the United Kingdom and they may be involved in cooperation, when it comes to measures that suit them.

Summarizing the Lisbon Treaty in the communitarisation process of policies, which are very sensitive to impinge on the area of national sovereignty, have gone up as far as is possible.

In the area of foreign policy and security, important innovations are those concerning the introduction of clauses for collective defense and the solidarity clause. In fact, Member States and the Union, in the case of clause of solidarity, by all available means help a country that is a victim of natural or human disaster or terrorist act. When it comes to defense, European Defense Agency is determined by contract, as well as the possibility of broader cooperation between the countries that want and are able to put the EU at the disposal of units ready for immediate intervention. The Lisbon Treaty defines more clearly the role of the EU in the field of common foreign and security policy. In order to preserve peace and security, conflict prevention and strengthening international security in accordance of the UN Charter, it may undertake missions outside its own territory. It also expands the EU's role in disarmament operations, military advice, and assistance to restore stability after conflicts.

Lisbon Treaty brings great innovations, when it comes to protecting basic human rights within the European Union. It is envisaged that the Charter of Human Rights has the same effect as the contract itself. By equating the legal force of the Charter with contracts, a long process of improving human rights is completed. Charter of fundamental rights was not a formal source of law, to which the communitarian judge is calling to, but only a source of inspiration.¹⁰⁷ In this way, the Charter has found its place in the system of the European Union. It is mentioned for the first time in the draft Constitutional Treaty of the European Union, and this is a similar solution consisted in the Lisbon Treaty. It is important to note one thing, that contrary to Constitutional Treaty, based on the Lisbon Treaty, the Charter isn't an integral part of the contract, but its legal force it is recognized based on Treaty. Otherwise, the Lisbon Treaty calls for a revised version of the Charter whose revision serves the very purpose of revising the Treaty and which was signed on December 2007.

Lisbon Treaty provides changes in respect of legal documents and only in its formal part. In fact, the names of acts and classic names of regulations and directives have been changed and replaced by terms of the law and the framework law. Those are only changes of terminology, and not substantial changes in terms of legal power that these

¹⁰⁷ J. Čeranić, Ugovor iz Lisabona: Ka efikasnijoj Evropskoj uniji, *Pravni život* br.13, Beograd, 2008, str. 810

documents produce. In terms of decision-making procedures, regular decision-making procedures have become a regular procedure, which applies in most cases, with exceptions, i.e. the use of special procedures. The Lisbon Treaty facilitates the procedure of decision making within the institutions. The Council of Minister, instead of unanimous decisions establishes a mechanism of qualified majority voting, which will result in faster and more efficient decision-making. Beginning in 2014, for voting of qualified majority and decision making in the Council of Ministers the support of 55% of member states representing at least 65% of population will be needed. This procedure gives double legitimacy to decisions. In this way of making decision, the areas relating to taxation and security policies of the European Union were excluded. The contract also reached a certain target in terms of modernization and democratization of the EU institutions. New features of the High Representative for Foreign and Security Policy and President of the Commission was established to promote activities of the EU on the international stage and to better defend interests and values of the Union abroad.

In areas of enhanced cooperation, Lisbon Treaty takes the provisions of the Treaty establishing a Constitution of the European Union Draft.¹⁰⁸ This institution was first mentioned in the Amsterdam Treaty, but never enforced. Member states can deepen (strengthen) cooperation and integration within the framework of the Treaties, leaving the door open to those who would later join them (as is the case with the single currency or the Schengen-Acquis law, in which from the beginning never participated all member states, but they were join later). This approach of cooperating is a great visionary approach, for simplifying the provisions on cooperation, takes into account the heterogeneity of interest within the Union of 27 members, while preserving space for joint activities in perspective.

Analyzing the Lisbon Treaty in the sphere of the legal nature of the European Union, we can cautiously say that it has elements of the federation in monetary relations, agriculture, trade and environmental protection; elements of a confederation in the social and economic policy, consumer protection and domestic politics and elements of the international organization when it comes to foreign policy and the security.

The Lisbon Treaty clearly defines and complements the objectives of the European Union and introduces the tools necessary to achieve and protect those goals, as already mentioned above. Primarily to the area of freedom, in the broadest sense, security and justice without internal borders; continuous sustainable development policies of the Union based on social growth and price stability; highly concurrent social market economy aiming the highest possible level of employment and social progress, a high degree of environmental environment, coping with selectivity and all forms of discrimination, promotion of economic, social and territorial cohesion and solidarity among Member States, the preservation and enhancement of economic and monetary union with the euro as its currency, highlighting and promoting the values of the European Union in the world and contribute to world peace, security and sustainable development of planet Earth, solidarity and respect between nations, free and fair trade

¹⁰⁸ J.Ćeranić, "Ugovor iz Lisabona: Ka efikasnijoj Evropskoj uniji", *Pravni život* br.13, Beograd, 2008, str. 811

and poverty eradication, preservation and promotion of human rights, particularly children and the strict implementation and development of international law, including respect for the principles of the Charter of the United Nations. The Lisbon Treaty itself allows and establishes ways of achieving these goals through greater integration institutions.

RESUME

Taking all the above exposed from the historical development, starting from the European Union development, through its institutions and legal acts taken by the European Union, the Lisbon Treaty has brought significant changes in the structure of the European Union. The most important innovation is to simplify the structure of the European Union, which replaced the three pillars of the European Union where it is built. Unambiguous recognition of legal personality of the Union the unique values that have become essential elements of the functioning of the Union were established. Lisbon Treaty have reinforced the existing elements expressed through a unique institutional mechanism and established new mechanisms to create greater unity.

It is premature to talk about the European Union as a state, but there are plenty of arguments that show that in the last several years is rapidly moving in that direction. In its origins, and the process of development can perhaps best to consider the crucial influence of the economy in real life, who led the efforts to achieve individual economic objectives that would lead to the formation of an international organization that has more political character and that takes many features of state organization.¹⁰⁹

Due to the unification of rules, which is made from the very inception of the Union, we can say that the foundations of the Union lay on solid foundations and that is evenly developed, and as such has the potential to take on the attributes of statehood. The Lisbon Treaty confirmed and strengthened this feature. This is corroborated by the fact that the formation of joint bodies within their jurisdiction is made and acts that are binding for all member states, regardless of whether the State has voted for the decision. With the Lisbon Treaty this decision-making mechanism has been simplified for certain issues, so that in the period after the 2014 will be required majority of 55% of Member States representing 65% of the population. It has already been mentioned that the European Union largely takes a common foreign policy, which is defined and adjusted at the highest levels of EU governance and a way of defining and conducting foreign policy, certainly has elements of statehood and amplified the supranational characteristics.

At the end, Lisbon Treaty is a developed mechanism in addition to the existing member states, states that have not access to it, including Serbia.

¹⁰⁹ M.Starčević, „Međunarodno privredno pravo“, Beograd 2007, str.43.

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