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Strasbourg, 23 October 2007

# THE TREATY OF LISBON

On 19 October 2007, in Lisbon, the Heads of State and Government reached an agreement on the new Reform Treaty, closing the Intergovernmental Conference (IGC).

The new Treaty will enhance the Union's capacity to act by increasing the efficiency and effectiveness of the institutions and decision-making mechanisms, especially in view of new global challenges – and issues which matter to citizens – such as climate change, energy security, international terrorism, organised cross-border crime, immigration and further enlargement.

The Treaty of Lisbon will also improve the democratic accountability of the Union and the rule of law, reaffirming the objectives and values of the Union.

The new Reform Treaty amends the Treaty on European Union (TEU) and the Treaty establishing the European Community, which is to be renamed the Treaty on the Functioning of the European Union (TFEU). Both treaties are to have the same legal rank.

Even though the new Treaty is no longer of a constitutional nature, it preserves the most important successes of the Constitution as regards democratic legitimacy, efficiency and enhancement of citizens' rights (with certain substantial exceptions for the UK and other MS):

1. An article at the beginning of the TEU defines clearly the values on which the Union is based. Another one lays down the objectives of the Union.

2. The Charter of Fundamental Rights becomes legally binding and has the same legal rank as the Treaties, although its text will not be included in the Treaties. Due to the insistence of the EP representatives during the IGC, the Charter will be solemnly proclaimed at a plenary session of the Parliament by the Presidents of the Parliament, the Council and the Commission on 12 December 2007 and subsequently published in the Official Journal. The proclamation will reflect the Charter's specific nature and increase its visibility. The Treaty article giving the Charter its legally binding character will refer to the above-mentioned proclamation. A Protocol introduces specific measures for the United Kingdom and Poland establishing exceptions with regard to the jurisdiction of the European Court of Justice and national courts for the protection of the rights recognized by the Charter.

3. The draft Treaty provides for a new legal basis for the accession of the Union to the European Convention on Human Rights. The Council will decide by unanimity, with the consent of European Parliament and the approval of Member States.

4. Although the provisions relating to citizenship will be in the TFEU, the concept of European citizenship has resumed the place it merits and, due to the insistence of the EP representatives, now appears as follows in Article 8 of the TEU: "*Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.*"

5. Participatory democracy is enhanced, notably through the right of citizens' initiative, which allows at least one million citizens from a significant number of Member States to ask to the Commission to take an initiative in a specific area.

6. Co-decision is substantially extended (as envisaged by the Constitution) and becomes the ordinary legislative procedure. As a result, the European Parliament becomes an equal co-legislator for 95% of European legislation. Parliament's involvement increases the democratic legitimacy of European legislation.

7. The new budget procedure ensures fully parity between Parliament and the Council in the approval of the whole budget (the distinction between compulsory and non-compulsory expenditure is abolished) and of the multi-annual financial framework, which becomes legally binding.

8. Qualified majority voting becomes the general rule in the Council. Its definition as a double majority of 55% of the States representing 65% of the population is maintained as in the Constitution (while a minimum number of 4 Member States is needed to constitute a blocking minority), although it will not come into force until 2014. It will also be subject to a 3-year transitional period until 2017, during which a decision can be blocked in accordance with the voting rules set out in the Nice Treaty. On top of that, a new mechanism based on the "Ioannina compromise" provides that a minority of Member States can ask for a reconsideration of a legislative proposal before its adoption. According to a Declaration annexed to the new Treaty, a decision of the Council will give legal status to this mechanism. A Protocol negotiated in the last hours of the IGC states that the Council can only repeal or amend that decision after a preliminary deliberation in the European Council, acting by consensus.

9. Furthermore, it will be easier than at present to have recourse to enhanced cooperation. Parliament must give its consent.

10. A new permanent President of the European Council (elected for two and a half years by the Heads of State and Government) will chair and drive forward its work. He or she will ensure the preparation and continuity of the work of the European Council, endeavour to facilitate cohesion and consensus within the European Council and present a report to the European Parliament after each of its meetings.

11. The IGC agreed on the new composition of the Parliament based on the proposal made by Parliament with the addition of one seat. That seat will be allocated to Italy. As a result, Parliament will be composed of 750 members plus its President.

12. The President of the Commission will be elected by the European Parliament by a majority of its component members. The candidate will be proposed to the Parliament by the European Council, who will nominate the candidate by qualified majority, taking into account the results of the European Parliament elections and after holding the appropriate consultations. Parliament will also vote on the investiture of the whole Commission, including the High Representative for Foreign Affairs, who will also be a vice-president of the Commission.

13. To ensure the efficiency of the Commission, the number of its members will be reduced: after 2014, it will be composed of a number of commissioners corresponding to 2/3rds of the number of Member States. To ensure equality between Member States a rotation system is introduced, ensuring that each Member State will be represented in two colleges out of three. From the entry into force of the Reform Treaty until 2014, the Commission will be composed of one member for Member State (including the Vice President/High Representative).

14. The creation of a double-hatted High Representative for Foreign Affairs, who will chair the Council of Foreign Affairs and be one of the vice-presidents of the Commission, will ensure the coherence of the whole external action of the Union. He/she will be appointed by the European Council with the agreement of the President of the Commission. As a vice-president of the Commission he/she will be subject to the investiture vote of the whole Commission by the Parliament. On the initiative of the EP representatives, a declaration negotiated at the very last moment in the IGC guarantees the right of Parliament to be involved in the appointment of the interim first High Representative.

15. The progress made in the sphere of the Common Foreign and Security Policy has been preserved in its entirety, including faltering progress in enhancing the efficiency of decision-making and the creation of a European External Action Service which will assist the High Representative in ensuring the coherence of the whole external action of the Union.

16. In the domain of defence, those Member States having the capacities and willing to do so may develop a structured cooperation that may lead to a common defence system. A solidarity clause is introduced: if a Member State is the victim of armed aggression in its territory, the other Member States shall aid it and assist it by all means in their power.

17. The area of freedom, security and justice is communitarised and co-decision and qualified majority voting are extended, even though initiatives by Member States remain possible in certain cases. The communitarisation is combined with certain "emergency brakes" allowing Member States to refer issues to the European Council when their vital interests in this area are at stake. In those cases, enhanced cooperation is facilitated. Exceptions for the United Kingdom and Ireland are laid down in specific protocols (opt-in/opt-out mechanism).

18. The jurisdiction of the Court of Justice is expanded to cover all the activities of the Union except for the Common Foreign and Security Policy (but including control of measures restricting the rights of individuals).

19. The single legal personality of the Union is introduced and the pillar structure disappears, so that common policies in the area of freedom, security and justice are brought inside the Community method. The Common Foreign and Security Policy, however, is addressed in the TEU (while other sectors of the external action of the EU are dealt with in the TFEU) and continues to be governed by specific decision-making procedures.

20. A clear and precise division of competences is introduced, accompanied by a flexibility clause, similar to the existing one, but in which Parliament now has to give its consent.

21. On top of the so-called "yellow-card" procedure (if one third of national parliaments reject a legislative proposal, the Commission will reconsider it), a new mechanism designed to permit national parliaments to control the application of the principle of subsidiarity has been introduced: if a simple majority of the national parliaments adopt an opinion stating that a legislative proposal does not respect the principle of subsidiarity, and either the Council or the Parliament agrees with those national parliaments, the proposal is rejected.

22. The new legal bases for energy (strengthened), patents, tourism, sport, space and administrative cooperation are introduced and environment policy has been supplemented by a reference to climate change.

23. A new horizontal "social" clause ensures that, in the definition and implemention of its policies, the Union will take into consideration requirements such as the promotion of a "high level of employment", "adequate social protection", the "fight against social exclusion" and a "high level of education, training and protection of human health".

24. A specific legal basis recognises the particular characteristics of services of general economic interest. A Protocol further complements the Union concerns in this area.

25. The hierarchy of norms is preserved through the distinction to be made between legislative acts, delegated acts and implementing acts, although the terms "law" and "framework law" have been abandoned in favour of keeping the present terminology (directives, regulations and decisions). Parliament and the Council will have equal powers as regards the definition of the modalities of control of delegated and implementing acts (comitology).

26. The European Parliament has an enhanced role in the procedure for Treaty revision: it gets the right of initiative, it is part of the Convention which is at the core of the new ordinary procedure of revision, and its consent is necessary if the Council wishes not to convene a Convention in the case of minor changes.

27. The simplified procedures for amending the Treaties introduced by the Constitution with regard to policies and procedures are maintained:

    - the part of the TFEU concerning internal policies and actions can be modified by unanimous decision of the European Council with the approval of the Member States (EP consulted);

- another simplified procedure allows moving from unanimity to a qualified majority in the Council or from the special legislative procedure to the ordinary legislative procedure (co-decision) by a unanimous decision of the Council with the approval of the EP. If a national parliament objects, the decision cannot be adopted. In that case only the ordinary revision of the Treaty can apply.

Finally, the TEU will contain an exit clause, defining the modalities and the procedure under which a Member State can leave the Union. The consent of the European Parliament is needed.