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DEMOCRATIC IMPROVEMENTS OF THE EUROPEAN PARLIAMENT AFTER THE LISBON TREATY REFORMS: WHAT HAS BEEN ACHIEVED?

Abstract:

The paper focuses on the current state of the position of the European Parliament in the European Union after the institutional reforms that have been introduced by the Lisbon Treaty. The key issue that is examined is whether the Lisbon reforms made stronger European Parliament, an institution that is more efficient and closer to the citizens.

First of all, the Treaty of Lisbon changed the legislative procedure. The previously known co-decision procedure has been transformed into regular legislative procedure with the Treaty of Lisbon.

Secondly, the Treaty of Lisbon made significant changes in another area, increasing the political control of the Parliament over the Commission.

Third, but not less important that the previous two is that with the Article 11 section 4 of the Lisbon Treaty was introduced a right for citizens initiative in the EU. Namely “not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.

The paper addresses the main reforms that have been made with the Treaty of Lisbon regarding the powers of the European Parliament. The authors try to answer whether the European Parliament after the reforms become a stronger institution and what are the changes that have to be taken into consideration when another intergovernmental conference with institutional reforms like main topic is going to be scheduled.

Key words: European Parliament, Lisbon Treaty, institutional changes, jurisdiction, legislation.

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1. Introduction

Until 1979 the European Parliament was consisted of delegates from the national parliaments from the member states of the Union. By delegating national representatives, there was no existing link with the voters of the member states- the representative function by direct election of national representatives was not fulfilled. Since 1979 there is a directly elected European Parliament consisting of ‘representatives of the peoples of the States brought together in the Community’ (Article 189 EC). Today, the European Parliament has become the only EU institution with directly elected representatives that reflects the will of the European voters. As regards the members of the European Parliament there has been an important change in the wording of the provision which defines their representative role. According to the previous article in force quoted before now the Treaty of Lisbon went one step further with regard to the concept of representation. Article 14.2 TEU establish that the Parliament is composed of representatives of the Union`s citizens, elected for five years by direct universal suffrage in a free and secret ballot. This new wording follows the democratic mandates underlined above, which stressed the importance of representative democracy (art. 10.1 TEU) and links the idea that `` citizens are directly represented at Union level in the European Parliament``.¹

The legislative powers of the European Parliament have been increased in the last 20 years, in the course of the treaty reforms, starting from the introduction of the co-operation procedure with the Single European Act (1987) and the co decision procedure introduced by the Maastricht Treaty (1993) and the Amsterdam Treaty (1999). It is clearly noticeable that the changes introduced with the Treaty of Lisbon, increasing the legislative powers of the European Parliament can be perceived as a big step forward in decreasing the democratic deficit of the European Union.

2. European parliament

2.1.Composition and functioning

¹ Juan Mayoral, Democratic improvements in the European Union under the Lisbon Treaty, research paper. Available at: <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2149909> , accessed on 16.04.2014.

European Parliament under the provisions of the Treaty of Lisbon is composed of representatives of the citizens of the Union. The number of representatives cannot exceed seven hundred and fifty, plus the president. It is important to say that the Lisbon Treaty introduces a new procedure for determining the composition of parliament, or a maximum 96 and minimum of 6 representatives from each member state, according to the principle of so-called reduced or digressive proportionality.

''Representativeness'' of the European Parliament has been criticized because the number of MEPs for each country is not proportional to the population and smaller Member States are not proportional represented.² The mandate of the MEPs is same like the mandate to the members of the Commission and it is five years. Pursuant to the provisions of the TEU for citizenship of the Union, citizens with residence in any Member State acquired the right to vote and to appear as candidates in elections for the European Parliament.

Members of Parliament elect its own president, along with fourteen Vice presidents whose term is two and a half years. The President and the Vice presidents collectively constitute a body that is called the Bureau of Parliament. Bureau is the regulatory body, responsible for the budget authority of Parliament and the organizational and administrative matters. Another body which is established within the European Parliament and the political and managerial is ''The Confederation of the Presidents''. The responsibility of this body is to prepare the agenda for plenary sessions, to determine the schedule of work of parliamentary bodies and require the description of tasks and size of committees and delegations.

The seat of Parliament is in Strasbourg, but the Secretariat is located in Luxembourg and certain Committee meetings are held in Brussels, to facilitate contact with the Commission and the Council. Within the Parliament there are twenty permanent committees. The jurisdiction of the committees is to discuss legislative proposals by the committee and to propose changes to them.

Parliament adopts its own rules of procedure³ and establishes regulations and general conditions governing the performance of duties by its members.⁴

² Grainne de Burca and Paul Craig. *EU Law: Text, Cases and Materials*, Fourth Edition, Magor, Skopje, 2010, pp.59.

³ Article 232 TFEU, *Official Journal C.83, V.53, 30.03.2010*,

⁴ Article 223 TFEU, *Official Journal C.83, V.53, 30.03.2010*,

2.2 Jurisdiction

The European Parliament exercised three kinds of powers: 1) legislative powers, 2) budget authority and 3) powers of political supervision.

2.2.1 Legislative powers

The legislative power in the Union is divided between the European Parliament and the Council of Ministers. The procedure previously called co-decision procedure with the Treaty of Lisbon is called regular legislative procedure. Under this procedure one act cannot be adopted without the approval of Council and European Parliament and highlighted the achievement of the common text approved. The Treaty of Lisbon has significantly increased the number of areas in which decisions are brought by regular legal procedure. That means that legislative proposals from the Commission cannot be adopted without the formal agreement of the European Parliament and the Council. The procedure itself consists of several readings of the proposed Act:

The first reading begins with the European Parliament where the proposed act is discussed and the Council is informed about that position of the Parliament. The Council may now agree with the opinion of the European Parliament and act to be brought with the formulation that is suggested by the European Parliament. If the Council disagrees with the opinion of the European Parliament, it shall adopt its own position and report to the European Parliament where it exhaustively elaborates the reasons for such a stance adopted. After this and the Commission explains its position to the European Parliament. After that the European Parliament schedules a second reading.

The second reading of the proposed act begins with the European Parliament. If the Parliament within three months approved the position of the Council from the first reading or doesn't decide, the act shall be considered adopted with a formulation that fits the position of the Council. If the majority of the members in the European Parliament reject the Council's position since the first reading, the act shall be deemed not adopted. European Parliament by a majority vote may propose amendments to the Council's position from the first reading and to submit the amendments to the Council and to the Commission. In this case the Council has three months to declare the amendments proposed by the European Parliament and he may

vote by qualified majority to adopt the amendments proposed by the European Parliament, where the act shall be deemed adopted. But if Council has not adopted all the amendments proposed by the European Parliament then the President of the Council in accordance with the President of the European Parliament within six weeks convene a meeting of the Conciliation Committee (serenity). Conciliation Committee is composed from members of the Council or their representatives and the same number of MEPs, who have six weeks to coordinate views on contentious issues that occurred at the second reading. If members agree, the representatives of the Council vote for the common text by a qualified majority, while the representatives of the European Parliament are required to vote with a majority of their representatives in the Conciliation Committee. After the coordination of the common text of the act, third reading is scheduled. If the representatives of the Committee for conciliation does not achieve agreement on the common text, this act shall be deemed not adopted.

The third reading is scheduled for the agreed text of the act to be voted in the two institutions (the Council and the European Parliament) respectively. The deadline for this vote is six weeks from the approval of the adoption of the common text.⁵

This regular legislative procedure applies to 40 new areas, 30 of which are permanent areas modified by co-decision procedure. As new, specifically indicating significant areas are the areas of freedom, security and justice where the regular legal procedure is extended on the borders control, asylum, immigration, judicial cooperation in criminal matters, issues of minimum sentences in defining organized crime, measures to encourage prevention of crime, Eurojust, police cooperation, Europol and civil protection.⁶ When it is specifically provided in the Treaties, the legislative acts to be brought in the so-called “special legislative procedure”, the Parliament shall decide independently, with participation of the Council or will participate in the decision making process with the Council in form of prior consultation, consent or approval of the act adopted by the Council.⁷

The Lisbon Treaty does not provide a right to legislative initiative for the European Parliament. The right of legislative initiative belongs to the Commission. But under the provisions of the Treaty, the European Parliament is involved in the procedure for amending the Treaties of the Union. The Commission is the principal actor to initiate change of the Treaty with the organization of a convention but his consent is also necessary and when the European Council decided not to call a convention.

⁵ Article 294 TFEU, *Official Journal C.83,V.53, 30.03.2010.*

⁶ Tanja Karakamisheva, . *The European parliament and the Lisbon Treaty from 2007*, www.pravo.org.mk, visited on 26.06.2011.

⁷ Saso Georgievski, . *Introduction to the law of the EU*. “Ss.Cyril and Methodius University” Skopje, 2010,p.55.

2.2.2 Jurisdiction of the political supervision

The issue of political supervision of the European Parliament on the other institutions is most concerning because of the right of supervision or control the work of the Commission. Thus, under Article 17, paragraph 7 of the Treaty the European Parliament elect the President of the Commission on a proposal from the European Council by majority vote of its members, unlike before when the Parliament only gave consent. If the candidate does not receive the required majority in the European Parliament, the European Council vote with qualified majority of its members within one month and propose a new candidate.

The Council, together with the elected president of the Commission prepares and approves a list of the other members of the Commission. In proposing a candidate for President of the Commission, the Council has an obligation to take into account for the results of recent elections for European Parliament members political orientation.

This provision of the Treaty allow the political parties that have achieved electoral victory to impose in an informal manner to the European Council its own candidate for President of the Commission.⁸

Commission as a body is responsible for its work before the European Parliament. European Parliament may vote for confidence to the Commission with 2 / 3 majority vote. If confidence is voted to the members of the Commission, they will submit a collective resignation. In this case resignation will be submitted and by the High Representative of the Union for external affairs and security policy.⁹

One of the another instruments of supervision that can serve to the European Parliament to oversee the work of other institutions, in particular, the Commission is setting out oral and written questions and forming committees of inquiry.

In Article 228 of TFEU envisages that the institution Ombudsman is elected by the European Parliament during the term of the Parliament. The Ombudsman is empowered to

⁸ Zoran Radivojevik, *New institutional reform of the EU, Annals of the Law faculty in Belgrade*, year LVII, 1/2009, p.191-216.

⁹ Article 16, *Treaty of Lisbon, Official Journal C.306, V.50*
17.12.2007. <http://www.lexnet.dk/law/download/treaties/Lis-2007.pdf> visited on 26.06.2011.

receive complaints from any citizen of the Union, any physical or legal person residing or with registered office in a Member State, in cases of wrongdoing on the Union's institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union.

The Ombudsman investigates the complaints and report on them.¹⁰ The main limitation of the jurisdiction of the Ombudsman is that it covers only the EU institutions and not the national institutions. The Ombudsman is empowered to conduct investigations on its own initiative. After locking the investigation, the Ombudsman sent a report to Parliament and to the institution that was under investigation. The applicant is entitled to know the outcome.¹¹

2.2.3.Budget authority

Before the entry into force of the Lisbon Treaty the Council had the final word on compulsory expenditure, while the European Parliament was dominant in terms of "optional costs", although the decisions for the second one were still taken in cooperation with the Council.

The Lisbon Treaty provides a different procedure for adopting the annual budget of the Union in respect of that before its entry into force. The Treaty provides phase for reconciliation between the Parliament and the Council unless agreement has been reached for the proposed budget for next year.¹² The Parliament is the one who approves the final budget.

3. Conclusion

After more than fifty years of very dynamic evolution and deepened integration, the European Union has come to a stage when it needs to strengthen its democratic capacities in order to go further. The Union evolved as a unique system (*sui generis*). It is much more than an international organization, having supranational institutions such as the European Commission, the European Parliament, the European Court of Justice, different agencies, and a legal system that has supremacy even over the national constitutions. Therefore, the European Union cannot be legitimized solely through its member states, participating in it,

¹⁰ Article 228 TFEU, *Official Journal C.83,V.53, 30.03.2010*.

¹¹ Grainne de Burca and Paul Craig. *EU Law: Text, Cases and Materials*, Fourth Edition, Magor, Skopje. 2010, p.63.

¹² Saso Georgievski, *Introduction to the law of the EU*, "Ss.Cyril and Methodius University" Skopje, 2010, p.58

what is the case of purely international organizations. At the same time, the European Union cannot be defined as a state because the crucial competences of a state are missing and are unlikely to be attributed at the European level of governance.

The European Union, since it was founded, is facing the challenge of creating reliable institutions that can respond to the citizen's requests and preferences. The Union is created to be reliable partner in the citizen's requests and preferences and therefore its responsiveness contributes to strengthening the ties between the institutions and the citizens. This is the crucial link for building the trust and reducing the created distance. It remains as one of the greatest responsibilities for the future of the Union how to overcome the democratic deficit.

One of the attempts to overcome the democratic deficit, thus strengthen the 'unification' of Europe and its citizens, is the creation of a European Constitution, now modified into Treaty of Lisbon (Reform Treaty). The first version was rejected. There are different opinions of why the constitution was rejected, or rather wherein the 'problem' of the constitution lies. The Treaty of Lisbon is an improvement of the institutional status quo in terms of more democratic contestation. The Treaty increases transparency of the legislative process and increases the powers of the European Parliament. In this manner it is important to be said that the regular legislative procedure applies to 40 new areas, 30 of which are permanent areas modified by co-decision procedure. As new, specifically indicating significant areas are the areas of freedom, security and justice where the regular legal procedure is extended on the borders control, asylum, immigration, judicial cooperation in criminal matters, issues of minimum sentences in defining organized crime, measures to encourage prevention of crime, Eurojust, police cooperation, Europol and civil protection.¹³

What is more Secondly, the Treaty of Lisbon made significant changes in another area, increasing the political control of the Parliament over the Commission. Thus, under Article 17 paragraph 7 of the Treaty, the European Parliament shall elect the President of the Commission upon a proposal from the European Council by majority vote of its members, unlike before when the Parliament only gave consent for the proposed candidate. In this case if the candidate does not receive the required majority in the European Parliament, the European Council shall vote with qualified majority of its members within one month and propose a new candidate.

Additionally, the Council, together with the elected president of the Commission, prepares and approves a list of the other members of the Commission. In proposing a

¹³ Tanja Karakamisheva, *The European parliament and the Lisbon Treaty from 2007*, www.pravo.org.

candidate for President of the Commission, the Council has an obligation to take into account the results of recent European Parliament elections and its dominant members' political affiliation.

Some of the authors claim that this provision of the Lisbon Treaty allows the political parties, that have achieved electoral victory, to impose in an informal manner its own candidate for President of the Commission to the European Council ¹⁴ and therefore the authors deny the benefit that this provision has for the European Parliament.

Unfortunately the Lisbon Treaty should have gone a step further and provide the right for legislative initiative on the European Parliament and not to leave same right in exclusive jurisdiction of the Commission. Also here it should be mentioned that the Treaty, as in former Treaties, enables the EP to call on the Commission to submit any appropriate proposal on matters concerning which the EP considers that a Union act is required in order to implement the Treaties (art. 225 TFEU). If the Commission does not submit such a proposal, it must inform the EP for the reasons.

When it comes a word for the changes that should have been introduced with the Treaty of Lisbon it has to be pointed out that the Treaty didn't introduce any mechanism for political control over the Council of ministers from any institution of the Union. So now we have a situation where important decisions are being made in an institution that is not responsible in front of any other institution except in front of the national voters.

Those are the two remarks to the Lisbon Treaty and besides the newly introduced reforms and improvements for the European Parliament the democratic deficit of the Parliament still remains to a large extent.

¹⁴ Zoran Radivojevik, *New institutional reform of the EU*, Annals of the Law faculty in Belgrade, year LVII, 1/2009, p.191-216.

BIBLIOGRAPHY

1. Burca, de Grainne and Paul Craig. *EU Law: Text, Cases and Materials*, Fourth Edition, Magor, Skopje. 2010, p.63.
2. Georgievski, Saso. *Introduction to the law of the EU*, “Ss.Cyril and Methodius University” Skopje, 2010, p.58
3. Karakamisheva, Tanja. *The European parliament and the Lisbon Treaty from 2007*, www.pravo.org.
4. Mayoral Juan, Democratic improvements in the European Union under the Lisbon Treaty, research paper, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2149909.
5. Radivojevik, Zoran, *New institutional reform of the EU*, Annals of the Law faculty in Belgrade, year LVII, 1/2009, p.191-216.
6. Article 232 TFEU, *Official Journal C.83,V.53, 30.03.2010*,
7. Article 223 TFEU, *Official Journal C.83,V.53, 30.03.2010*,
8. Article 228 TFEU, *Official Journal C.83,V.53, 30.03.2010*.
9. Article 16, *Treaty of Lisbon*, *Official Journal C.306,V.50* 17.12.2007. <http://www.lexnet.dk/law/download/treaties/Lis-2007.pdf>.