



Jo Leinen

The Winners of the New European Treaty

- The Lisbon Treaty has many winners. Citizens will be involved in policy formation by means of the European citizens' initiative, national parliaments will have more opportunities to participate and the European Parliament will receive enhanced competences.
- The European Charter of Human Rights is the 'soul' of the new Treaty. Besides the classic civil rights and liberties, it also contains citizens' social and economic rights.
- The EU will also present a more unified and coherent external front. The EU's various external relations, trade policy and aid projects, development policy and diplomacy can be brought under a single head.
- European internal policy will be reorganised through the elimination of the former third pillar of internal and judicial policy. Freedom and internal security can be uniformly strengthened across Europe.
- The motto of European integration, 'Unity in Diversity', will be strengthened by the Lisbon Treaty. The EU will thereby consolidate its project of cooperation and integration of states and peoples that will make the world sit up and take notice.

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The Lisbon Treaty, a substitute solution for the European Constitution, will come into force on 1 January 2009. In the 27 member states of the European Union debates will take place during 2008 on ratification of this new European treaty.

With the new European treaty European unification will take a major step forward. The European Union will become more democratic and more capable of acting. We shall experience a twofold advance: first, from a Europe of states to a Europe of citizens, and second, from a purely economic union to a political union. With the Lisbon Treaty the European unification story is not over, however. But with the Basic Treaty Europe can better meet the challenges of the twenty-first century, from securing energy supplies and environmental protection to the improvement of internal and external security in Europe.

In many debates the impression has been raised that the Treaty will entail losses, whether it be in terms of national sovereignty, regional identity or even democratic participation. The opposite is true. The new European Treaty has many winners. For the first time it has been possible to establish a balanced system of governance from the local to the European level. Alongside the various state levels, citizens in particular, as well as organised civil society, will find their rights and possibilities for participation considerably strengthened.

Citizens as winners

1. With the *Charter of European Citizens' Rights* the most comprehensive and modern catalogue of rights and liberties in the world is embedded in the new European Treaty. For the first time, in a catalogue of fundamental rights people's social and economic rights stand on equal terms with the classic civil rights and liberties. These rights can be legally enforced before the European Court of Justice (ECJ) in Luxembourg. Besides the legally enforceable fundamental rights the Charter also contains a multitude of "country aims", from child protection to the right to a dignified old age. The Charter of Fundamental Rights is the "soul" of the new European Treaty. In it are set down the values and aims for the protection and modernisation of the European Social Model.¹

¹ One sour note is the UK and Poland's "opt-out" from the Charter of Fundamental Rights. People in these two EU member states will not remain unprotected. The exit clauses, however, introduce considerable uncertainty into the heart of the EU and weaken the EU's united front externally, for example, in the dialogue on fundamental rights with countries such as China and Russia.

2. With the Lisbon Treaty citizens will for the first time be able to influence directly policy formation in Brussels. The "*European citizens' initiative*" (Art. 11) introduces an instrument of direct democracy into European politics: if more than a million European citizens support a political demand by signing a petition the European Commission must put it on the policy agenda. The European citizens' initiative will prove to be a dynamic connecting link for people from Poland to Portugal. It will above all make possible a Europe "from below". The EU is in this respect more progressive than many member states, in which there are no elements of direct democracy.

3. With the new European Treaty citizens will for the first time acquire influence over the election of the EU's "head of government", namely the president of the European Commission, who is head of the European executive. In future he or she will be elected by the European Parliament. As a result, the elections to the European Parliament in June 2009 will take on a new significance. Citizens will ultimately decide the political direction in which the European Union will develop.

It is now desirable and even necessary that the European party families nominate suitably prominent candidates for the office of Commission president before the European elections. In this way citizens can for the first time choose between different persons, and so also between different programmes for the five-year legislative period. The European Union will in this way become closer to the citizens and also more transparent.

4. With the Lisbon Treaty the European Union will obtain new *competences and possibilities for action* in energy policy, environmental protection and internal security, as well as in the EU's common external front. From EUROBAROMETER surveys over many years we know that these areas are particularly important to citizens.

For the first time the European Union will obtain competence for energy policy. Greater energy security, more energy efficiency and the extension of renewable energies will be the guidelines of European energy policy in the coming years.

With the transition from unanimity to majority voting in further areas of internal and judicial policy the EU will be able to fight terrorism and crime better and more rapidly. There is also now a realistic chance of a European asylum and immigration policy, which has been blocked for years. Greater convergence in terms of civil law and law on marital status will also be facilitated. Marriages and separations across national borders can be dealt with

more quickly. Children's rights, which are linked to them, will be strengthened.

The Lisbon Treaty also strengthens the EU's social dimension. Social matters will be on a par with economic aims. The fight against poverty and exclusion, the full employment and equality of men and women, as well as the prohibition of discrimination will become aims of the European Union.

European competence for space policy is something new. Outer space is already an important resource. After long debates between the member states it was possible at the last minute to secure the satellite project Galileo under EU leadership. Citizens will benefit from important applications of this European satellite system: accurate and largely interference-free navigation systems, better weather forecasting and new safety measures in road, sea and air traffic.

The Lisbon Treaty will strengthen Europe and so improve people's quality of life on this continent.

Parliaments as winners

The parliaments elected by citizens in the EU are also among the winners of the new European Treaty. In Art. 10 of the Treaty it states for the first time: "The functioning of the Union shall be founded on representative democracy".

1. The *national parliaments* will acquire more responsibility and opportunities for participation. All new legislative initiatives will be directly forwarded by the European Commission to national parliaments. This will improve and accelerate the flow of information between the European and the national levels. The national parliaments have the possibility, within the framework of the so-called "early warning system", to file an objection to a European legislative initiative within eight weeks. They can hold up a yellow, an orange or even a red card when a proposal contradicts the principle of subsidiarity. In accordance with the subsidiarity principle the European Union will be active only in areas in which regulation at national or local level would not be better:

- *Yellow card*: when a third of national parliaments discover a breach of the subsidiarity principle the Commission is required to reconsider the proposal, although it does not necessarily have to change it.
- *Orange card*: if half the national parliaments object, the Commission will have to justify itself if it does not bring forward a new proposal. In this case the Commission's legislative initiative can

be rejected with 55 % of the votes in the Council of Ministers or a simple majority in the European Parliament.

- *Red card*: apart from raising objections within the framework of the early warning system national parliaments are also able to bring a subsidiarity action before the European Court of Justice through their governments. A legislative initiative by the European Commission must be withdrawn if the European Court of Justice decides that it infringes the principle of subsidiarity.

Apart from that, national parliaments, together with the European Parliament, will exercise political control over EUROPOL (the European Police Office) and EUROJUST (the European Union's Judicial Cooperation Office), and participate in the assessment of EU policies in the areas of freedom, security and justice (Art. 12).

2. The *European Parliament*, as the only European institution directly elected by citizens, will have its competences and right to have a say strengthened by the Lisbon Treaty. The new Treaty is a significant step on the way to parliamentary democracy at European level. Particularly in respect of legislation, budgetary law and control of the European executive the European Parliament will gain in significance:

- Virtually all EU laws will in future be adopted by the European Parliament and the Council of Ministers on equal terms. In this bicameral system the Parliament represents the interests of citizens, the Council of Ministers those of states. The co-decision procedure is something new, particularly in relation to the whole of agricultural policy, large parts of domestic and judicial policy, energy policy, disaster control and humanitarian aid.

In particular in internal and judicial policy the European Parliament will have new opportunities for participation, for example, in the fight against crime and terrorism, in questions of border control and immigration policy, as well as in control of the European police and judicial authorities, EUROPOL and EUROJUST. The Parliament has in the past supported a balance between security needs on the one hand, and civil rights and liberties on the other. The European Parliament considers protection of fundamental rights and of personal data as particularly important.

- The European Parliament will also have more of a say in European foreign and security policy. The newly created European foreign minister, the

official “High Representative for the Common Foreign and Security Policy”, is at the same time Vice President of the European Commission. He is therefore responsible to the European Parliament in his work, must account for his actions and can if necessary be dismissed by means of a motion of no confidence. The European Parliament must also have a say in the construction of the European Foreign Service or of “EU embassies” throughout the world. Together with national parliaments the European Parliament will also exercise parliamentary control over EU defence policy and EU military missions.

- The European Parliament’s budgetary rights will be significantly increased. In future, the European Parliament will have co-decision rights over all EU expenditure. The previous distinction between obligatory and optional expenditure has been abolished. The new co-decision procedure is significant for agricultural policy, which represents the biggest budgetary item. By controlling financial flows the European Parliament will also have an influence on Europe’s role in the world. The EU’s civilian foreign missions, as well as foreign aid, will be controlled by the European “citizens’ chamber”.
- With the Lisbon Treaty the European Parliament will in future elect the president of the European Commission. The European Council will have to put a proposal before the Parliament, which will take into account the results of the European elections. The leadership of the European executive will in this way depend on the will of the electorate and on majorities formed on that basis in the European Parliament. This is an important step forward for both the personalisation and the politicisation of European politics and the realisation of European democracy.

Civil society as winner

The Lisbon Treaty anchors the principle of participatory democracy at EU level. “Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen” (Art. 10). Alongside the Social Dialogue of unions and management there will now be a Civil Dialogue with the representative associations of civil society.

There must be consultations with those affected and their associations concerning all legislative proposals and other initiatives. Civil society organisations that represent the interests of thousands of citizens

will be invited to take part in open, transparent and regular dialogue. In future, the views of such organisations as Amnesty International or Greenpeace, consumers’ associations and social organisations, will be taken into account much more in European judicial planning.

Also important in this connection is the new transparency initiative on the disclosure of lobbying in EU institutions. In future there will be a public register in which all lobbyists must be entered and the nature and extent of their lobbying activities must be described.

Non-governmental organisations (NGOs) will also be able to use the abovementioned European citizens’ initiative to lend weight to their demands. The Economic and Social Committee (ESC) in particular will play a bigger role in the coordination of the Civil Dialogue. In anticipation of the new Treaty the European Parliament has undertaken a dialogue with civil society in the EU. Around 500 representatives of non-governmental organisations have discussed the future of Europe with MEPs in an “agora”.

Local authorities and regions as winners

The Lisbon Treaty will strengthen the role of local authorities and regions in Europe. For the first time the right of local self-administration will be guaranteed by the European Treaty (Art. 4). The safeguarding of the cultural identity of regions in the EU is also among the aims of the Lisbon Treaty.

Local authorities and regions will be involved in the monitoring of subsidiarity. The Bundesrat (Federal Council or upper house of the German parliament) will have the possibility to show a yellow or orange card to legislative proposals from Brussels, as well as the German Bundestag (the lower house). This constitutes a further strengthening of the Federal *Länder*. The Committee of the Regions (CoR), in which all German *Länder* and leading municipal organisations are represented, will likewise be strengthened as regards its rights to information and consultation. The CoR also has the possibility of making a complaint on account of an infringement of subsidiarity before the European Court of Justice (Art. 8 of the Protocol on the application of the principles of subsidiarity and proportionality).

Also important for local authorities and the *Länder* is the obligation to undertake an impact assessment for all EU measures, which must present the administrative and financial consequences of a European law for the local and regional levels. In addition, the right of local authorities to wide discretion in the provision

of services of general interest (Protocol on Services of General Interest) will be guaranteed in a protocol. Quite a number of public services in the areas of education, culture, health and social services will no longer automatically be subject to the competition regime in the EU. The European Social Model – which among other things stands for the accessibility of public services for all and at reasonable cost – will be protected by the Lisbon Treaty.

The aim of “territorial cohesion” in the EU (Art. 3) is also relevant to local authorities and regions. In this way the EU and the member states shall be obliged to prevent a drifting apart of rich regions in areas of high population density in Europe and structurally weak regions. The principle of “economic and social cohesion in the EU” is also the basis for the EU Social Fund and the EU Regional Fund, from which many people and enterprises benefit.

Nation states as winners

In the new European Treaty competences will be delimited between the European and the national levels more clearly than ever before. For the first time exclusive competences and competences distributed between the EU and the nation states and the policy areas in which the EU can pass supplementary measures will be listed in the Treaty. All competences not conferred on the EU shall remain with the member states (Art. 2 of the Treaty on the functioning of the EU). The European Union shall respect the equality of the member states and their respective national identities. According to the principle of conferral the European Union can act only within the limits of the competences conferred on it by the member states in the Treaties (Art. 2 of the Treaty on the functioning of the EU).

Alongside a clear delimitation of competences the member states will also benefit from the strengthening of the Council of Ministers and the establishment of the European Council of heads of state or government as a new institution. In future the member states will be represented by two EU bodies. The Council of Ministers, which in its various formations brings together national departmental ministers (Art. 16), will be active, jointly with the European Parliament, as a legislator and jointly exercise budgetary authority. There will also be the European Council as a new institution with an elected president (Art. 15). The European Council is to provide the European Union with the necessary impetus for its further development and lay down priorities, as well as Europe’s political aims.

The member states will also benefit from the transition from unanimity to qualified majority voting in most policy areas. Obstruction by a single member state at the expense of the other 26 countries will no longer be possible in these cases. Decisions will be taken more quickly and will no longer be restricted to a minimum consensus.

Europe as winner

The Lisbon Treaty is an important stage on the way towards European unity. The new European Treaty strengthens the EU both internally and externally.

In the twenty-first century Europe stands before a multitude of new challenges: energy shortages, climate change, international terrorism and crime, trouble spots in the neighbourhood of the EU, increased economic competition, in particular with China and India, as well as demographic change and the ageing of the continent as a whole.

The new European Treaty represents the conclusion of a reform debate that commenced in the early 1990s. With the fall of the Iron Curtain and of communism it became clear that the EU would incorporate quite a number of new member states. The institutions and decision-making procedures were originally designed for the six founding states and had to be adapted. With the Amsterdam Treaty of 1999 some progress could be made, but a real breakthrough proved impossible. The Nice Treaty of 2003 was a disappointment rather than a step forward. Only the Laeken Declaration and the calling of the Constitutional Convention gave new impetus to the debate on the future of the EU. The Constitutional Treaty failed to win ratification by the member states, but the most important contents could be saved in the new Lisbon Treaty. The European Union will become more democratic and more capable of acting through the Lisbon Treaty.

The new competences for energy policy, environmental protection, space policy, health protection and disaster control, as well as tourism and sport, provide a joint framework of action for the solution of major tasks. The European Union’s acquisition of legal personality and the overcoming of the division between the EU and the European Community are significant. Europe is now a unified whole and can act both internally and abroad and conclude international treaties.

For internal action the elimination of the former third pillar of internal and judicial policy is of path-breaking significance. In this sector, which is so important for citizens, in future the Community method

will prevail: laws will be initiated by the Commission and passed by the European Parliament and the Council of Ministers. Both freedoms within the EU and internal security will be considerably improved in this way.

The Lisbon Treaty represents a major impetus towards a common front for Europe in the world. Europe will gain from the new office of Foreign Minister, even if he will have to call himself "High Representative for the Common Foreign and Security Policy". By means of his twofold function as Vice President of the European Commission and Chair of the Council of Foreign Ministers he will build bridges to a unified and coherent representation of Europe to the outside world. The Foreign Minister will be assisted in his work by a European Foreign Service. Colleagues from the Commission, the Council and the member states will work together in this "diplomatic service". The EU's various external relations, trade policy and aid projects, development policy and diplomacy can be brought under one head. European security and defence policy will also become an "integral part" of EU policy through the Lisbon Treaty (Art. 21–46). In this way the European Union can take action in the form of missions to ensure peace, prevent conflict and strengthen international security. The ultimate aim is a common defence policy.

The EU as a community sharing a common destiny is evident from the solidarity clause and the mutual assistance pact. In the case of an attack on the sovereign territory of a member state the other member states shall be obliged to come to its aid. In Art. 222

of the Treaty on the functioning of the Union it says: "The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster."

The European Union is the first attempt to unite the peoples and states of the continent voluntarily and peacefully. History has witnessed a number of attempts to achieve this by means of force and oppression. Such attempts have always failed. The voluntary character of membership of the European Union is emphasised by the new exit clause (Art. 50). A member state can decide to withdraw from the Union. In that case a withdrawal agreement must be reached with the other partners.

In a world which is getting smaller but with constantly increasing problems it cannot be expected that the relatively small European nation states will be able to manage their future alone.

With the Lisbon Treaty the EU is consolidating a model for cooperation and the integration of states and peoples that will make the world sit up and take notice. Should regional integration prove possible in Europe, in future there could be unions in other parts of the world. For example, in 2002, 53 states in Africa agreed to found an African Union (AU), with the seat of its institutions in Addis Ababa. There are similar schemes in Latin America and Asia.

"Unity in variety" is the motto of European integration. By safeguarding national and regional identities European cooperation in the solution of major problems is a historic project from which all will benefit.

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Internationale Politikanalyse
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E-Mail: info.ipa@fes.de
Fax: +49 (228) 883-625



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Friedrich-Ebert-Stiftung
International Policy Analysis
z. Hd. Antje Schnadwinkel
D-53170 Bonn

E-Mail: info.ipa@fes.de
Fax: +49 (228) 883-625

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