

Extract from:
Alain Dauvergne, "The Treaty of Lisbon: Assessment and Prospects as of Summer 2011",
Study No. 87, October 2011.

Summary

The first eighteen months that have gone by since the Lisbon Treaty's implementation are probably too short a time to allow us to formulate any final judgement, yet it is also long enough for us to see how the various players have "penetrated" the treaty and how they have proven either capable of, or even eager to, benefit from it; and to attempt to conduct an initial review of both the positive contributions and the shortcomings that these months have brought to light. The main lessons that this analysis suggests are the following:

1. With the European Council's institutionalisation, the triangle – Parliament, Commission, Council of the Union (council of ministers) – that traditionally represented the framework for the Union's institutional functioning has given way to a "trapezium" in which the unfolding of events has identified two winners – the European Council and Parliament – and two losers, the Commission and the Council of Ministers.
2. The heads of state and government leaders have clearly taken over the running of the Union's affairs. This can be explained by the change in the European Council's legal status, but also by the fact that it now has a full-time

President (Herman Van Rompuy, who was appointed at an extraordinary summit on 19 November 2009); and also, indeed possibly above all, by the fact that the crises that have followed on from one another since 2008 have demanded the kind of political decisions that can only be taken at the highest level.

3. The European Parliament was perfectly geared up to make use of its new powers. Whether it is the Union's budget, its own prerogatives in respect of the Council of Ministers or the Commission, international agreements over which at this juncture it enjoys the right of veto, or indeed any other area over which it has jurisdiction, Parliament is closing ranks to avoid giving an inch where its rights are concerned, even papering over the political differences between the various groups for the purpose.
4. By comparison, the Council of Ministers has lost ground on two counts. As the European Council firmed up its grip on the running of daily business, the Council of Ministers' role suffered a certain amount of erosion. The Council of Ministers is, of course, a co-legislator with Parliament, but in the power struggle that traditionally pits one institution against another, the MEPs have managed to push through a kind of ongoing agreement with the Commission that puts them in a favourable position.
5. In a situation of – undeclared but nonetheless real – rivalry with the permanent President of the European Council, or on occasion even with the High Representative, Commission President Barroso is suffering. The Commission, the driving force behind European construction and endowed for that very purpose with a monopoly on legislative initiative, appears to have lost its nerve. In a difficult economic situation that restricts the Union's budgetary possibilities and in a political climate that works to the advantage of the European Council's intervention and authority, it is true to say that its position has become tricky. The national political leaders have taken over at the helm.
6. The High Representative has come in for a good deal of criticism from the outset: "incompetence", "flimsiness" and "lack of reactivity" are the charges

levelled at her. It would have been fairer to wait a little before assessing her performance, especially as it took almost a year of hard work for the totally new “European diplomatic service” to timidly see the light of day. Moreover, Europe has no common foreign policy, thus the High Representative’s job demands something of an acrobat’s skills to perform it...

7. Some of the democratic progress enshrined in the Lisbon Treaty, with citizens’ initiative heading the list, has yet to be implemented. In addition, some of the institutional developments taking place are still uncertain, for instance with regard to the implementation of the Charter of Fundamental Rights, the organisation of the Schengen area or the management of the Common Agricultural Policy.

The developments described in the study are still unstable and thus this assessment of a work in progress will need to be updated in the coming years. This, among other reasons, because several important measures contained in the Lisbon Treaty are not due to come into force until 2014, in particular the adoption of a qualified majority vote in the Council and the Commission’s makeup. That, too, is going to be a very important appointment for the Union, indeed it may even prove to be another turning point.