



THE TREATY OF LISBON

- ❑ Aims at amending the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the EU, its institutions and decision-making mechanisms;
- ❑ Will be composed of two treaties with the same legal value:
 - will keep the **Treaty on the European Union (TEU)**;
 - and the TEC will be renamed **Treaty on the Functioning of the Union (TFEU)**;
- ❑ Has no constitutional character, but preserves most of the innovations resulting from the 2004 IGC (almost 90%);

Main innovations:

- ❑ Clear and more precise delimitation of Union competences;
- ❑ The word "Community" will be replaced by "**Union**" as the Union replaces and succeeds the Community;
- ❑ Technical amendments to the Euratom Treaty and to the existing Protocols as agreed by the 2004 IGC will be made via protocols attached to the Treaty;
- ❑ An article at the beginning defines the values on which the Union is based and another one lays down its objectives;
- ❑ **Single legal personality:** third pillar on justice and home affairs will disappear entirely after five-year transition, with common policies in the area of freedom, security and justice; co-decision and qualified majority voting are extended, even though initiatives by Member States remain possible in certain cases. Pooling of powers at Community level is combined with certain "emergency brakes" allowing Member States to refer issues to the European Council when their vital interests 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);
- ❑ Only the **common foreign, security and defence policy** continues subject specifically to intergovernmental procedures



- ❑ **European Commission:** as of 2014, the Commission will consist of a number of members corresponding to two thirds of the total number of Member States, selected on a basis of equal rotation; Commission President elected by the European Parliament; the EP will also vote on the investiture of the whole Commission;
- ❑ **President of the European Council:** Elected by the European Council for a period of two and a half years, renewable once;
- ❑ **European Council:** becomes a full institution of the Union, subject to the supervision of the European Court of Justice;
- ❑ **Council of Ministers:** sectoral Councils (except the Council of Foreign Ministers) will be chaired by ministers from a three-member team, from a member state each, for a period of 18 months;
- ❑ **QMV generalised and new voting rules:** QMV defined 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 four Member States is needed to constitute a blocking minority). It will not come into force until 2014. It will also be subject to a three-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;
- ❑ **European Parliament:** will have 750 members plus its president;
- ❑ **Role of national parliaments and reinforced control mechanism on subsidiarity:** period given to examine draft legislative texts and to give a reasoned opinion of eight weeks (protocols on national parliaments and on subsidiarity and proportionality will be modified accordingly); if one third of national parliaments adopt an opinion stating that a legislative proposal does not respect the principle of subsidiarity (“yellow card”), the Commission will have to reconsider it. If a simple majority of national parliaments continue to object, the Commission refers the reasoned objection to the Council and Parliament which will decide the matter (“orange card”);
- ❑ **Co-decision** becomes the ordinary legislative procedure;
- ❑ **Budget procedure:** parity between Parliament and the Council in the approval of the whole budget - abolition of distinction between compulsory and non-compulsory expenditure; and multi-annual financial framework becomes legally binding;



- ❑ **“High representative of the Union for Foreign Affairs and Security Policy”** who will chair the Council of Foreign Affairs and be one of the vice-presidents of the Commission and will manage the European External Action Service, which aims at ensuring the coherence of the whole external action of the Union;
- ❑ **Charter of Fundamental Rights:** Although its text will not be in the Treaties, a cross-reference will now be made. The Charter, which becomes legally binding, was solemnly proclaimed at a plenary session of the EP by the Presidents of the EP, the Council and the Commission on 12 December and published in the Official Journal; a protocol introduces specific measures for the UK and Poland establishing exceptions with regard to the jurisdiction of the ECJ and national courts for the protection of the rights recognised by the Charter;
- ❑ **European Convention on Human Rights:** a new legal basis for the accession of the Union to the convention; the Council will decide this by unanimity, with the consent of European Parliament and the approval of Member States;
- ❑ **EU citizenship:** is stated and developed, broadening also the right to citizens to address the European Court of Justice;
- ❑ **Citizen’s right of initiative:** one million citizens can call on the Commission to bring forward an initiative of interest to them;
- ❑ **Enhanced cooperation:** will apply to all areas covered by the Constitution apart from the area of exclusive competences, as well as to the Common Foreign and Security Policy under specific conditions. Furthermore, a new mechanism of ‘permanent structured cooperation’ will apply in the area of defence, enabling a group of Member States fulfilling the operational criteria listed in a protocol to cooperate more closely and jointly undertake more demanding military tasks; a solidarity clause will lead Member States to assist each other in the event of armed aggression;
- ❑ **Committee of the Regions:** gains the right to approach ECJ;
- ❑ **New legal basis:** for intellectual property rights, sport, space, tourism, civil protection and administrative cooperation;
- ❑ **Energy:** the Treaty refers to a ‘spirit of solidarity between Member States’ as regards difficulties in security of supply. A reference to ‘the promotion of interconnection of energy networks’ is also introduced;
- ❑ **Competition:** although no longer in the objectives, the status of competition policy is untouchable;
- ❑ **Climate change:** in the environment chapter, the Treaty will refer to the need, at international level, ‘to combat climate change’;
- ❑ **Services of general interest:** A new protocol has been agreed, which talks of the ‘wide discretion of national, regional and local authorities’ in providing services of general economic interest;



- ❑ **New hierarchy of norms:** legislative acts, delegated acts and implementing acts but directives, regulations and decisions kept;
- ❑ **Enlargement:** The so-called Copenhagen criteria (market economy, respect for democracy, etc.) for potential new Member States are included in the Treaty;
- ❑ **Article on social partners:** recognition of social partners;
- ❑ **European Court of Justice (ECJ):** jurisdiction expanded to cover all the activities of the Union except for the CFSP (but including control of measures restricting the rights of individuals); number of advocates-general increased from 8 to 11; specialised courts may be set up with the agreement of the EP, e.g. on patent law;
- ❑ **Horizontal "social" clause:** ensures that, in the definition and implementation 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";
- ❑ **Revision of the Treaties:** European Parliament has an enhanced role in the procedure for Treaty revision: it is given the right of initiative, and its consent is necessary if the Council wishes not to convene a Convention in the case of minor changes;
 - simplified procedure:
 - 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 makes it possible to move 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.
 - **Exit clause:** contained in the TEU defining the modalities and the procedure under which a Member State can leave the Union. The consent of the European Parliament is needed.
