

Lisbon five months on: Surveying the new EU political scene

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The Treaty of Lisbon entered into force five months ago, introducing six major institutional innovations that were supposed to make the Union more efficient, more transparent and increase its legitimacy. So, how is the new system shaping up?

Positioning of the European Council President

The first European Council meetings with Herman Van Rompuy at the helm offer an indication of how this new institution is going to take shape. The president himself seems to interpret his role of President of the European Council (POTEC) as more of a facilitator than a leader. This choice should be regarded rather positively. Initial expectations of Van Rompuy were not high in many capitals of Europe, and true leadership can only be founded on the trust European Council members have in their president.

The POTEC introduces much-needed elements of longer-term stability to the European Council agenda and could play an important part as mediator in situations of conflict. This could already be observed during the spring European Council meetings. Van Rompuy's aim to focus the activities of the institution on economic governance could prove risky, however, if day-to-day crises continue to dominate the agenda of this new institution.

The close relationship between the POTEC and the European Commission president (they have weekly meetings) should also be regarded positively, as smooth cooperation between the Union institutions is necessary for successful action. The process of positioning the president vis-à-vis other actors (especially towards the rotating presidency and the Commission) is underway. So far it

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has largely been successful for the POTECE, but future setbacks cannot be excluded, especially with a stronger and better organised rotating presidency than the current one. A *modus vivendi* will need to be arrived at, as both the Spanish and Belgian EU presidencies are exceptional (Madrid is the first member state to lead a Lisbon rotating presidency, and it will be the objective of the Belgian rotating presidency to strengthen the POTECE). Tensions will most likely be detected in the area of foreign policy, and with the Commission and/or the High Representative for EU Foreign Policy.

One promising element is that the arrival of a permanent president of the most intergovernmental of EU institutions brings an element of collective thinking. Among 27 wolves fighting for their national interests there is now a mediator trying to convince the group to see Europe as one unity. The threat is that we may witness a ‘European-Councilisation’ of European politics, which might mean an inflation of the institution’s meetings and a marginalisation and subversion of other institutions (most notably the Council of Ministers, in particular the General Affairs Council, and the European Commission). If a stronger European Council means increased intergovernmentalisation of the EU – it does not necessarily entail a weakening of the Union. There are policy areas, such as economic governance, which can be only addressed by this institution.

Shaky start for the European Foreign Policy Chief

To be fair, Catherine Ashton does not have an easy life. She was under fire from day 1 in post, first for her lack of experience, then for her weak performance, especially in the aftermath of the Haitian earthquake. The Foreign Policy Chief, or High Representative, needs time she does not have. In the first period she needs to grow into the job (or jobs) and lay the institutional foundations of the European External Action Service (EEAS). Only then can real policy be formulated and acted upon. Unfortunately for Catherine Ashton, media expectations are too high and the expectations of member states (who continue to curb her room for manoeuvre) are too low. As a consequence, many external partners are confused. The risk is that Ashton would ultimately fail to deliver and leave office before the end of her term, or be forced to do so (the European Commission president has a new prerogative of dismissal of members of the Commission). The hope is that the establishment of the EEAS would address some of these criticisms and clarify the responsibilities of the service and the role of High Representative itself. The High Representative can be considered a victim (and, at first, a result) of a power struggle among member states and between the Council and the Commission. The unanswered question is whether any Lisbon-created High Representative could ever be the Union’s foreign policy-maker, or whether s/he can only ever be an instrument in the machinery of European foreign policy-making. The current political reality of the EU does not in fact leave too much room for manoeuvre, as the divergence of views among member states is significant. It may be too soon to prejudge any outcome at this stage, before the EEAS is agreed to and established. Nevertheless, following the organisational setting up of the foreign service, the real challenge for the EU Foreign Policy Chief will be to actually devise a European Union foreign policy.

A re-configured European Commission

The new European Commission operates in a completely different environment now than was the case under Barroso I. First, there is no institutional pressure on the Commission following the Lisbon Treaty’s entry into force. It can once again be assertive. Second, the current economic situation is strongly impacting what is *possible* in the EU. Third, the new composition of the Commission is confusing, even if the distribution of portfolios would seem to be more effective. On the one hand, 15 of the 27 Commissioners have been in the College before; so ‘more of the same’ can be expected. On the other hand, there is now a treaty-based ‘first’ deputy President; following the Copenhagen conference on climate change there is a new Directorate General and a dynamic start from the Climate Action Commissioner (Connie Hedegaard); there are new powers in new and old policies, such as energy and justice and home affairs, which allow for greater activity. The unity of the College will also be tested; as the disagreements on the aftermath of the Icelandic ash cloud revealed, for example. Fourth, the cluster of the external action Commissioners

has been established; the relationship between the three Commissioners (responsible for development, humanitarian assistance and enlargement and neighbourhood) and the European Foreign Policy Chief remain to be seen. Fifth, the power of the Commission president to dismiss fellow Commissioners gives President Barroso real supervisory clout over their performance. Barroso is consequently also responsible for their underperformance. The worry is that he might be susceptible to political pressure from outside the Commission, as has been the case in the past, when he came under fire for his lack of assertiveness during the financial crisis, for instance. Some hope that he will staunchly defend the single market from those European Council members who are overly-eager to reclaim sovereign powers.

What needs to be regarded very positively is the Commission's greater involvement with other institutions – as illustrated by meetings with the European Council President and the invitation of the European Parliament president to attend College meetings. The potential problem is the new need to redefine the position of the Commission president, since the Lisbon Treaty means that President Barroso is no longer the only individual operating in the 'Union interest'. Whether he continues to act as a conciliator of divergent national interests (which is precisely the role conferred upon the POTEK) or whether he will move to promote the 'Union interest' as a whole remains to be seen.

Empowered European Parliament

The European Parliament elections last June brought a chamber composed almost a half of new faces. The legislature got off to a slow start, but as time passed and the new Lisbon powers came to the Parliament – it finally became as politically influential an institution as the Commission or the European Council. These new powers are in the areas of agriculture, judicial and police cooperation, delegated acts, criminal law and the ratification of international agreements, to which the Union is party.

As in 2004, the European Parliament hearings to approve the Commission designates in 2010 proved that the nomination process needs to be taken more seriously by member states and the Commission; there is no room for the rubber-stamping of unqualified candidates. The rejection of Bulgarian Commissioner Rumiana Jeleva illustrates this point. Second, the SWIFT¹ vote has put the chamber firmly at the centre of EU decision-making. One could argue that during the week of 8 February – with the confirmation of the European Commission and the SWIFT vote in the Parliament in Strasbourg and the informal European Council meeting in Brussels – Strasbourg, not Brussels, was at the centre of European politics. What is certain is that the Parliament needs to mature and take more responsibility for the entire Union. The first indications are promising in this regard; the Parliament is now taken more seriously not only by other EU institutions, but also in Washington DC, for example.

The fact that member states' diplomats now need special permits to access the chamber symbolises the fact that the two co-legislators in the Union are now on an equal footing. The biggest worry in relation to the Parliament is its weaknesses: the party structures and, most importantly, its public legitimacy. It is up to this term of the Parliament to make the institution known and respected in its current incarnation, and pave the way for a less self-indulgent political culture. The legislature seems to have embraced the idea that it will be noticed more by citizens simply because of its new powers, but seems to have forgotten that it must make itself more relevant to voters. It will not achieve this through 'communication' of its activities, however, as useful as this exercise may be. Instead it must bring the electorate directly into the decision-making process by active engagement with the voters. A telling test will be if the voting public turns out in greater numbers in late spring 2014 than it did in 2009.

¹ On 11 February 2010 the European Parliament rejected an interim SWIFT agreement between the EU and the US on the transfer of citizens' financial data to prevent terrorist attacks> For more information see: <http://www.euractiv.com/en/justice/meps-say-no-swift>

Re-engaged national parliaments

National parliaments are the traditional victims of the transfer of competences to the European Union. First, decision-making in national capitals has become more restrained and more sophisticated, as the Union legislates on more issues than before. Second, when the national position on EU legislation is decided, the role of the executive is now much stronger than that of the national legislatures. New powers granted by the Lisbon Treaty to national chambers try to redress this balance.

Whether and how national parliaments will engage further in the European decision-making process remains a mystery. What is certain for the moment is that there is an increasing momentum within the national parliaments' bureaucracies towards making the 'early warning' system work. The testing experiences managed within the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC), the body set up to exchange ideas between national parliaments, proved in recent years that the system *can* work. The first challenge is to convince national parliaments to use it and use it not only for the purpose of blocking unwanted proposals, but also to engage them more in the pan-European debate and stimulate a national one. Another problem would be if the parliaments and their participation in the 'early warning' system became just a function of national government policy. However, the subsidiarity checks can potentially bring positive effects of a constitutional, democratic and political nature as well as increasing the transparency of EU legislation. Finally, would the new procedure generate a 'Mr. No' capable of saying 'No' to Commission initiatives by mobilising a third of national parliaments on time? In other words, the new tool is a two-edged sword – it can mobilise national parliaments to engage in EU legislation more than previously, but it can also become a pawn in a cynical political game.

European citizens neglected

Citizens showed an yellow – not a red – card to Europe's political class last June. The invisible wall that seems to divide European and national democratic arenas still stands. Governments treat the EU as a distinct sphere of policy-making rather than just another level of decision-making in which they are regularly involved. The institutions give the impression that they are either ignorant of or afraid of European citizens. The president of the European Council positions himself vis-à-vis other institutions and globally, but his gestures towards European citizens are, so far, few and far between. Although a relatively open administration, the Commission is still not treating civil society consultations seriously. The Parliament seems to have shelved all debate on legitimacy and participation until ahead of the next elections. In this climate of inertia, two things are happening.

First, there are the massive protests in Greece in which the EU and Germany in particular are hammered as being responsible for the necessary cuts, not the Greek population or Greece's political actors. Will the EU lose popularity in Greece and in other nations that would either have to pay for Greece or find themselves in a similar situation?

Second, the European Commission has started the legislation process on the European Citizens Initiatives (ECIs) provided for in the Lisbon Treaty. All actors concerned are engaged: the Commission, the presidency, some other member states, the Parliament and civil society. Yet the major challenge posed by the ECIs is that paradoxically they may play a major role in alienating European citizens from EU integration, rather than creating a pan-European debate. How? If there was an ECI that the EU could legislate on, the Commission does not have to wait for 1 million signatures in order to act. Once it acts, it will take years before a final law is applicable *on the ground*. In the process, interest diminishes and many will be discouraged by the time delays. On the other hand, if the Commission refuses to take action, then a real debate could start – yet this time it would not be on what the EU can do for the citizen in the street, but how incapable and/or toothless the institution is.

In the most extreme cases, the ECI will be used by extreme organisations as a tool to draw public attention to their cause. In the process of drafting the regulation on citizens' initiatives, the

Commission has been considering this problem and has proposed a number of ‘quality control’ checks. However, the problem is not how *not to* allow the extremists to use the instrument, but *why* the extremists hold the views that they do. Hence, all ECIs should be addressed politically. Great responsibility lies with the European Parliament in this respect, as the only EU institution with a direct mandate from the public. The Parliament should become the guardian of the new instrument; all issues addressed through the ECIs should be addressed also by the Parliament; it could even support some of the ECIs by requesting that the Commission submit appropriate proposals (Article 225 TFEU). So, in principle, the ECIs’ primary use will be for political purposes. They could, for example, be used by European political parties in the run-up to the European elections in 2014 to mobilise public interest and gather support.

Conclusions

The Lisbon Treaty provides for new political balances between the different institutions, but it is no substitute for political will. Whether the new political balances result in a substantive change depends mainly on the political decision-makers of the European Union. Having said that, what kind of political system has the new EU embraced? The new balance of power seems to be between the Parliament and the European Council; the first institution represents the ‘EU interest’ and the ‘EU people’s voice’, and the other defends national interests and challenges the Commission on internal market rules. The Commission gave away part of the political initiative to the European Council and part of the political manifestation of the Union’s interests to the Parliament. But it remains a powerful executive and the defender of single market rules. Yet relations between the three heads – the presidents of the Parliament, Commission and the European Council – are smoother than ever before. At the same time, however, the fourth President – that of the Council – has been left out. The Council, with its rotating presidency, seems to be losing political initiative to all other actors. This may or may not backfire in the future when a more assertive rotating presidency takes over. The unknown quantity in the whole scenario remains the Foreign Policy Chief; but the least predictable animal is the collective voice of the national parliaments. Will the citizens of Europe like the new European Union any better?