

Lisbon Treaty – new constitutional development for Europe?



Reform Treaty 2007

- The European summit held in Brussels on 21-23 June 2007
- No far-reaching European constitution – a modest Reform Treaty, with a few pragmatic, evolutionary changes instead
- There were negotiations among the national governments of the member states, aiming to conclude by December 2007: Treaty of Lisbon
- Target day of ratifications was: January 2009, BUT it finished: December 2009

Some questions...

- **Why does the European Union need a new treaty?**
- **What is proposed in place of the Constitution?**
- **What happened to the EU Constitution?**
- **What remains from the Constitution?**

Some advantages...

- **A more democratic and transparent Europe**
- **A more efficient Europe**
- **A Europe of rights and values, freedom, solidarity and security**
- **Europe as an actor on the global stage**

A more democratic and transparent Europe

- Three principles of democratic governance
- Greater powers for the European Parliament
- A greater role for national parliaments
- Transparency in the Council of Ministers
- More participatory democracy
- Relations between the EU and its member countries

Efficient and modern institutions

- European Parliament (functions and composition)
- European Council
- The Council of the European Union
- European Commission
- EU high representative for foreign and security policy / Commission vice-president
- The other institutions
- National parliaments

A Europe of rights and values

- human dignity, freedom, democracy, equality, the rule of law and the respect for human rights
- social justice and protection
- fight against social exclusion and discrimination
- guarantees the enforcement of the Charter of Fundamental Rights
- a new right: a petition with at least one million signatures

The EU in the world

- two important institutional innovations: the “permanent” President of the European Council and the new High Representative for Foreign Affairs and Security Policy and Vice-President of the Commission
- European External Action Service
- single legal personality for the Union
- specific legal basis for humanitarian aid
- a “solidarity clause”

More Justice, Freedom and Security

- European Parliament as co-legislator
- abolition of the existing separate policy areas - known as 'pillars'
- Role of European Commission and European Court of Justice
- operational police cooperation, criminal justice and administrative cooperation

Policies for a better life

- Climate change and the environment
- Energy: sustainable and competitive resources
- Civil protection
- Public health
- Public services
- Regional policy
- Research
- Commercial policy and economy

Ratification



- 18/02/2009 - Czech lower house approves the Treaty
- 30/06/2009 - German Court passes judgment on the Treaty
- 25/09/2009 - Final step in Germany's ratification process
- 03/10/2009 - Ireland says "yes"
- 10/10/2009 - Polish president ratified the Treaty
- 13/11/2009 - Czech president signed the treaty
- 01/12/2009 - it came into force

POLAND & Lisbon treaty – opt out

- The "Charter of Fundamental Rights of the European Union" interpreted by the ECJ is not to apply fully to Poland (and the United Kingdom), although it would still bind the EU institutions and apply to the field of EU law
- Two proposal by an MP and a senator from Law and Justice party to the Constitutional Tribunal

Article 1 and 2 of Protocol nr 7

The Charter does not extend the ability of the ECJ, or any court or tribunal of Poland or of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of Poland or of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.

In particular, and for the avoidance of doubt, nothing in Title IV of the Charter creates justiciable rights applicable to Poland or the United Kingdom except in so far as Poland or the United Kingdom has provided for such rights in its national law.

To the extent that a provision of the Charter refers to national laws and practices, it shall only apply to Poland or the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of Poland or of the United Kingdom.

CZECH REPUBLIC

Parliament has ratified, president of the republic (Vaclav Klaus) has not signed

Constitutional Court decisions

- Two constitutional challenges
- November 2008: "The Treaty of Lisbon amending the Treaty on European Union and Treaty on establishing the European Community and Charter of Fundamental Rights of the European Union are not in conflict with the constitutional order. [...] The EU integration process is not taking place in a radical way, which would lead to a "loss" of national sovereignty, but it is an evolutionary process.,,
- In September 2009
 - a second constitutional challenge: the Lisbon Treaty is not compatible with the Czech Constitution
 - the constitutional court is expected to issue a ruling on whether the Lisbon Treaty is compatible with the Czech constitution on November 3
 - observers: no infringements; reference will be made to the decision in 2008

GERMANY

Constitutional Court decision

- During the German ratification procedure
- June 2009 (147-page long) opinion regarding the treaty
 - treaty was compatible with Grundgesetz
 - the treaty does not create a European federal state
 - it would invalidate the Grundgesetz
 - require a referendum in Germany
 - the substance of German national sovereignty is protected
 - the judges reserved the right to overrule judgments by the ECJ within Germany, if they should be judged in violation of the Grundgesetz

Thank you for the attention!

