

Lisbon Treaty – the architect of a new European institutional structure

Lecturer Ph.D. Student **Maria POPESCU**¹

Abstract

The European Union is today managed by the Lisbon Treaty, which stated, in his time, and rightly so, that is a step towards European integration, both at the institutional and human level, a treaty that succeed, despite difficulties, to move forward the European project that combined his account about half a century. The changes introduced by the Lisbon Treaty have a significant impact on EU governance. Treaty of Lisbon makes substantial changes in the management of the EU, especially with regard to the European Council, the Council of Ministers and the EU's rotating presidency. The main task of the research in this paper is the approach of the provisions of the EU Reform Treaty (Lisbon Treaty) in terms of constitutional law. Research conducted prior to permit formulation of a general belief, namely that common European history of all its successes and difficulties demonstrates the viability of the European idea and the correct direction of institutional developments in the EU and the Member States.

Keywords: institution, Lisbon Treaty, reform, constitution.

JEL Classification: K33

I. Historical issues that led to the Treaty of Lisbon

On 1 December 2009 the European Union has entered a new phase of its existence as a political entity, economic and social by entry into force of the Lisbon Treaty. By Lisbon Treaty, the European Union is preparing to become more efficient, compared to the challenges of globalization, and democratic, based on the representation of the interests of its citizens².

Briefly, we can say that the Lisbon Treaty redefines the EU's role in a globalized world. The European Union will be in a better state in the international arena. It is, at present, a strong actor - in size and economic strength - and the Lisbon Treaty provides new tools to share it externally³.

The European Union is in a continuous process of adaptation at both the internal organization and in relation to external factors. Number of 27 Member States and the possibility of the increase required a rethinking of the European institutions work with a great emphasis on the rights of citizens. Also EU is a global player in many relevant areas, all the changes and challenges we face global

¹ Maria Popescu – Spiru Haret University, Faculty of Law and Public Administration, Bucharest, mirela@avocatmariapopescu.ro

² Mănoiu Bogdan, *Despre intrarea în vigoare a Tratatului de la Lisabona*, lecture occasioned by the conference "The entry into force of the Lisbon Treaty" to - Bucharest, 26 February 2010, organized by the Department for European Affairs www.juridice.ro

³ Popescu Andrei (2008), *Tratatul de la Lisabona – un tratat modificator și reformator al Uniunii Europene*, „Buletin de informare legislativă” no. 1/2008, Legislative Council, p. 4, www.clr.ro

(climate change, economic recession or energy security) affecting the Member States and therefore the Union. Thus, in the last ten years the European Union has sought the right way to optimize the tools at its disposal and to respond as promptly and effectively the expectations of Member States and their citizens⁴.

The moment of birth of the Lisbon Treaty is unclear. The origins of the Lisbon Treaty are found, according to some opinions⁵, the Single European Act in 1986 which operated the first major amendment to the original Treaties (incorporation) of the European Economic Community. The Single European Act was, at the time of its entry into force on 1 July 1987, another modifier treaty. Its main novelty items were the reform of the Community institutions (the extension of qualified majority voting, official recognition of the European Council, the consecration of the designation "European Parliament", the association of the latter in the legislative process by introducing the procedure of cooperation with European Council and Commission European Court of First Instance creation), the widening of Community powers (mainly social) and codified provisions on the European Political Cooperation (EPC), which are de facto since 1970, based on the Treaty of Maastricht introduced Foreign Policy and Security Policy (CFSP).

Other experts feel that it is highly dependent on the succession of events that targeted institutional reform of the European Union in this decade: the Declaration of Laeken in December 2001, the statement released the work toward the Constitutional Treaty, the Intergovernmental Conference and the European Convention 2003 - 2004, the failure of the Constitutional Treaty in 2005 by the French and Dutch voters expressed in referenda to ratify the new treaty. Or the zero moment may be considered even when its 50th anniversary of the European Union and 25 March 2007. With this anniversary the political discussions resume and give a new impetus to the European project. The same day it is signed the Berlin Declaration, which is the assumption of this policy objective. Therefore all Member States support the recovery of the European Union reform and complete this process before the European elections in June 2009.

Failure of the draft for European Constitution meant not stop the reform process. Yet it was a setback. The next stage the purpose to bring Europe closer to the citizens of the Union matters. The years 2005-2006 were a period of reflection: the European Commission's Plan D encouraged the organization of public debates on the future of EU, debate involving citizens of the Community. Moreover, for greater efficiency and transparency European Commission proposed in 2006 under the initiative "Citizens Agenda" as institutional changes and policy agenda to run in parallel.

Regarding the Constitutional Treaty and the Lisbon Treaty, apparently, between the two texts there are not major differences: the European Union acquires legal personality, it is called a High Representative for Foreign Policy (formerly Minister for Foreign Affairs), the Charter of Fundamental Rights is included in

⁴ www.europedirect.centras.ro,

⁵ Popescu Andrei, *cited work*, p. 4

Primary legislation is introduced the option for Member States to leave the Union, citizens can influence the political process by the citizens' initiative, etc.

Although it may seem just a formal change at the request of several Member States, including the Netherlands, Czech Republic, UK, etc. in the text of the new treaty there are no longer listed symbols (flag, anthem, motto) and waives certain terms (eg. Constitution, law, minister, etc.) that could give him a character "constitutional". However constitutional valences are preserved.

Also, if the entry into force of the Constitutional Treaty that would replace the existing treaties, the Lisbon Treaty is limited to fine other treaties, namely the Treaty of Rome and the Maastricht Treaty.

Realizing the importance of reform, Member States wanted the new Treaty to enter into force before the 2009 European elections, in order to take effect upon the entry into office of the new legislation. Even if negotiations were finalized soon, the ratification process was more difficult than expected. Because it was not a constitution no longer were necessary to organize a referendum in the Member States except those in their own Constitution requires, for example in Ireland.

Important to note is the issue of the legal personality of the European Union under the Treaty of Lisbon. Legal personality is an important aspect of novelty introduced by the Lisbon Treaty⁶. With the acquisition of legal personality, the EU becomes a full-fledged actor on the international stage while having legal personality and relevance in terms of the relationship between the EU and Member States.

Pending the entry into force of the Lisbon Treaty, the legal personality belonged only to the European Communities. European Communities were legal entities of public law and has its own budget, a collection of distinct institutions and bodies and their agencies⁷. European Communities were established by the Member States which have delegated power to act in areas specifically set out in the Treaties establishing the Communities.

The relationship between Member States and the European Communities were developed based on principles covered by the Treaty, to delimit between states and the powers of the new entity created. Among these principles, we thank to illustrate only the most representative. The principle of limited empowerment regulated by art. 5, paragraph 1 of the EC Treaty, which provides that: "*The Community shall act within the limits of the competences conferred and of the objectives assigned to them by this Treaty*", establishes the general powers of the European Communities, more in art. 7 paragraph 2 of the Treaty (ECT) is determined and competent European institutions, thus "*Each institution shall act within the powers conferred by this Treaty*".

Another principle with greater relevance is the principle of proportionality referred to in art. 5 § 3 of the EC Treaty, which states that "*No action by the*

⁶ Pătru Ștefan Radu, „Anumite considerațiuni privind personalitatea juridică a Uniunii Europene în urma Tratatului de la Lisabona”, *Consilier European* no. 1/2010, pp. 12 – 18

⁷ Fuerea Augustin, *Drept comunitar European. Partea Generală*, ALL Beck Publishing House, Bucharest, p. 34, cited by Pătru Ștefan Radu, *cited work*, pp. 12 – 18

Community shall not go beyond what is necessary to achieve the objectives of this Treaty", establishing therefore the opportunities for the European Communities and the intensity of those actions.

II. Doctrinary debates concerning the role of the Lisbon Treaty

We must say that the Lisbon Treaty has created a series of debate in the scientific world. Thus in his *"From Dual to Cooperative Federalism. The Changing Structure of European Law"*, Robert Schütze make several considerations on the developments in the structure of European law. He states that era faced by European law is characterized by a structure change "from dual federalism to one of cooperation". It is noteworthy that - in these arguments about federalism - Robert Schutz insisted on the place and role of foreign affairs in a federation. "The rule is that the federation has exclusive external competence". If internally legislative powers are divided (in the Federation), the external powers of terminating treaties are unified (federal).

Other authors in the field - analyzing the Treaty of Lisbon - concluded that EU "there is no federation or confederation". Currently the European Union is a structure between a confederation and a federation of states. However, careful examination of several provisions stipulated in the treaty tend to shape an institutional structure that is inherent in a federal state and not a confederate state. Zbigniew Brzezinski believes that "the European Union is not a political power". The argument to that is "The EU is an economic union, a social union, a union of free movement, a financial union in a particular area". He also observed that "Western Europe alone was close to becoming a union at a time. Now the EU is, in fact, a community".

In the same line of debate on the status of European Union Nam-Kook Kim and Sa-Rang Jung believes that although lately Union appears rather as a confederal structure or intergovernmental Lisbon Treaty enables an evolution towards a federal state⁸.

Other authors such as Nobel Finn⁹ believes that the Treaty will bring efficient institutions, the European Parliament greater legitimacy and coherence of external action. Likewise in the problem of institutional and European policy is the analysis of Christian Kaunertal. He believes that the Lisbon Treaty gives the European Commission the status of supranational authority regarding the European area of freedom, justice and security. By this treaty the EU has to enjoy one of the most important results of the integration process¹⁰.

⁸ Nam-Kook Kim, Sa-Rang Jung, „Democratic Deficit, European Constitution, and a Vision of the Federal Europe: The EU's Path after the Lisbon Treaty”, *Journal of International and Area Studies*, Volume 17, Number 2/2010, pp.53-70

⁹ Laursen Finn, *The EU Treaty of Lisbon: origin, institutional choise and significance* - paper presented at the 50th Annual Conference of the International Studies Association, New York, 15 to 18 February 2009

¹⁰ Kaunert Christian, „The area of freedom, security and justice in the Lisbon Treaty: commission policy entrepreneurship?”, *European Security*, Vol. 19, No. 2/2010, pp. 169-189

Lisbon Treaty has raised many discussions in which concern the implementation of Community law in the domestic legal order. Recognition of the Community legal order of priority in relation to law, in matters covered by Community legislation on EU policies, determine, in practice, a strong impact in terms of traditional protective function of the legal order and domestic public changing it, directing it to create an economic public order in accordance with the public policy of economic¹¹.

Literature and experts were carefully bent institutional impact of the Lisbon Treaty. Thus Der-Chin Horng argues European Central Bank will be profoundly affected positively by adoption of the Treaty. Thus they are modified operation, employment and foreign relations¹².

But the issues raised by research in the field on the Lisbon Treaty, did not stop there. Was placed and whether the Treaty is a modification or alteration of the existing legal framework. From the perspective of the Romanian translation of the name, the Treaty of Lisbon, if necessary, amending treaty (French) or treaty reform (English). Although the two terms can be considered synonymous, in reality, in substance, the Treaty of Lisbon made alike, both: *change EU treaties, but reforms and EU institutions*¹³.

III. Institutional changes brought by the Lisbon Treaty

With regard to the *European Council*¹⁴, Treaty clarifies once and for all an issue has been debated many times in the literature, namely the character of its EU institution. The text clearly confirms the European Council membership in the European institutional system. At the same time in the art. 9B (now Art. 15 para. 1 of the Treaty on European Union) emphasizes: *"The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities. It shall not exercise legislative functions"*.

This is essentially the main novelty of the Lisbon Treaty¹⁵. The European Council is made in accordance with regulations Lisbon¹⁶, from chief of state or government of the Member States and its President and the President of the Commission. High Representative of the Union for Foreign Affairs and Security

¹¹ Mutulescu Antonia, *Punerea în aplicare a dreptului comunitar în ordinea juridică internă*, „Studii de drept românesc” no. 1/2010, pp. 37–42

¹² Der-Chin Horng, *The ECB under the Lisbon Treaty —The Impact on the ECB’s Constitutional Status and External Relations*, Institute of European and American Studies, Academia Sinica, „EURAMERICA” Vol. 40, No. 4/2010, pp. 887-922

¹³ Popescu Andrei, „Tratatul de la Lisabona – un tratat modificator și reformat al Uniunii Europene”, *Buletin de informare legislativă* no. 1 / 2008, Legislative Council, p. 3, www.clr.ro

¹⁴ Dragomir Eduard, Niță Dan, *Tratatul de la Lisabona*, Nomina Lex Publishing House, Bucharest, 2009, p. 25 et seq.

¹⁵ Mercedes Guinea Llorente, Francisco Aldecoa Luzarraga, *Europa Viitorului. Tratatul de la Lisabona*, Polirom Publishing House, Iasi, 2011, p. 247

¹⁶ Profiroiu Marius, Profiroiu Alina, Popescu Irina, *Instituții și Politici Europene*, Economica Publishing House, Bucharest, 2008, p. 78.

Policy participate in its work. The European Council shall meet twice every six months, convened by its President. When the agenda so requires, the members of the European Council may decide to be assisted by a minister and, in the case of the Chairman of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a meeting of the European Council.

Another important element brought by the new treaty regulates, at least in part, how the European Council operates. Given that, until the Lisbon European Council was missing from the official list of treaties made with the institutions, and the rules regarding its operation lacked prior resorting especially on common law that appear and were consolidated, over time.

The decisions of the European Council shall be taken by consensus, except where the Treaties provide otherwise. In the case of voting, each member of the European Council may also act on behalf of one other member.

European Council's role is particularly important when to amend the TEU. The Government of any Member State, the European Parliament or the Commission may present to the European Council draft for review entirely or partially the provisions of the Treaty on European Union function, the internal policies and action of the Union.

The European Council may adopt a decision amending all or part of the provisions of Part Three of the Treaty on European Union. The Council shall act unanimously after consulting the European Parliament, the Commission and the European Central Bank in the case of institutional changes in the monetary area. This decision became effective only after approval by the Member States in accordance with their respective constitutional requirements¹⁷.

Perhaps the most important novelty brought to the European Council is abandoning the rotating presidency system in favor of a post of *President of the European Council*¹⁸. It is elected by the European Council for a term of two and half years and will act to ensure the preparation and continuity of the work of the European Council and to find solutions that lead to consensus. President of the European Council may not hold other positions nationwide. According to art. 9B, entered by Lisbon Treaty, European Council President have the following responsibilities:

- shall chair it and drive forward its work;
- ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission and on the work of the General Affairs Council;
- acts in order to facilitate cohesion and consensus within the European Council;
- present to the European Parliament a report after each meeting of the European Council.

¹⁷ Dragomir Eduard, Niță Dan, *cited work*, p. 27 et seq.

¹⁸ See www.dae.gov.ro

President of the European Council ensure, at his level and in that capacity, the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.

President of the European Council shall not hold a national office.

The new position is particularly important on one hand because by its creation will give a continuity of action by the European Council and on the other hand the symbolism that is the existence of a man invested with the office of President of the European Council.

From one treaty to another, the legislative powers of Parliament were gradually expanded. A turning step widely recognized in this respect was the Treaty on European Union signed in Maastricht, which laid the foundations of the European Union from today, union founded on the European Communities (first pillar), with two additional areas of cooperation (two pillars and three): Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA). Upon entering in power in November 1993, the European Union Treaty, the EEC until then became European Community (EC).

Lisbon Treaty has had a major impact on the *European Parliament*¹⁹.

Hans Gert Pottering²⁰ said, regarding the Lisbon Treaty, that it "*strengthens the European Parliament, gives national parliaments more responsibility in determining the course of European policy, Europeans give power of initiative in relation to the EU institutions and guarantees local self-government*"²¹. Indeed, the Lisbon Treaty is the only treaty that stipulates and offers to the European national parliaments more power, giving them the right to engage regularly in European decision-making activity. In this way, national parliaments will be able to act as "*guardians*" of the principle of subsidiarity. National parliaments have the power to influence decisions at an early stage of developing a proposal before it to be examined in detail by the European Parliament and of Council of Ministers²². In this sense, all legislative proposals from Brussels will be notified to the national Parliaments, will have eight weeks time to appeal or proposal. If national parliaments without any objection, the legislative initiative proceeds. If two-thirds (i.e. qualified majority) of national parliaments object to the legislative proposal, the Commission has an obligation to discuss again and decide whether to continue to support the legislative proposal will amend or withdraw. In the case in which the Commission will decide to keep the contested draft, the conflict will be mediated by the European Parliament and the Council, national parliaments no longer having the right to appeal²³. Moreover, the Lisbon Treaty sustains effective and regular inter-parliamentary cooperation through organizing conferences on specific topics

¹⁹ Dusan Sidjanski, *Viitorul federalist al Europei*, Polirom Publishing House, Iași, 2010 p. 396

²⁰ President of the European Parliament in January 2007 - July 2009, the German Christian-Democrat politician.

²¹ G. Sergiu, Ghe. Jigla, O. Pecican, F. Pop, *Tratatul de la Lisabona, Uniunea Europeana catre reforma institutionala si consens*, Dacia Publishing House, Cluj-Napoca, 2008.

²² Dragomir Eduard, Niță Dan, *cited work*, p. 43.

²³ Treaty of Lisbon - consolidated version, Brussels, 30 April 2007.

(foreign policy, security and defense policy, etc.). They will not harm the national parliaments, on the contrary, it is considered better information and cooperation with national parliaments of European institutions that contribute to the adoption of best and appropriate practices. Besides, we can talk, henceforth, *de jure* of the existence of three levels of decision regarding European policies: regional, national and supranational.

The Lisbon Treaty provides the best opportunities for collective action. It gives a highly relevant *foreign and security policy* (ESDP) by introducing innovative elements, especially in the institutional and integration of these EU policies. It regulates new tools to an authentic ESDP²⁴. So it made:

- on the one hand, the development and improvement of crisis management regularization;
- on the other hand the establishment of new EU defense instruments;
- lastly, strengthens cooperation capacities action that serves two objectives.

First, the Lisbon Treaty aims at improving and improving existing instruments own ESDP:

- expand, thus where can be triggered and sustained Petersberg missions including them here and on the prevention of terrorist acts;
- it allows for a Union action to be assigned to perform, to a Member State or a group of Member States;
- simplify the procedure for financing the EU ESDP actions, which reinforces their effectiveness and responsiveness of the Union.

The new institutions of ESDP are:

- defensive alliance of member states, traditional element of territorial defense;
- solidarity clause between Member States to prevent terrorist attacks on the one hand and, on the other, to ensure response to the terrorist attacks or disasters;
- permanent structured cooperation, allowing those who wish to cooperate in capacity;
- European Defense Agency, which already exist, to strengthen cooperation in capacity, among others.

In line with the concept of "comprehensive security" that keeps the common defense:

- do not rely solely on military means, but also the civil means;
- not considering only traditional threats (territorial aggression, for example), but also new threats (such as terrorism or natural disasters or human origin)²⁵.

²⁴ Mercedes Guinea Llorente, Francisco Aldecoa Luzarraga, *Europa Viitorului. Tratatul de la Lisabona*, Polirom Publishing House, Iași, 2011, p. 215

²⁵ From the point of view of the EU, new threats reading is fundamental "European Security Strategy" developed by the High Representative for CFSP, Javier Solana, and endorsed by the European

The creation of the European External Action Service (or European foreign ministry, as it is called) and the High Representative of the Union for Foreign Affairs and Security Policy is thus one of the first changes made by the Lisbon Treaty. This new system shows a clear trend towards deeper integration in this field (which in turn could contribute to European integration increasingly enhanced, both in terms of quantity, the areas covered, but also qualitatively, the degree of integration). Moreover, with the disappearance of the pillars (the EU and the two intergovernmental), CFSP passes in the Community is subject to specific decision-making procedures²⁶.

European External Action Service composed of representatives of the Council, the Commission and the Member States and aims to assist the High Representative in his diplomatic actions²⁷. It is managed by the High Representative and the organization and operation are set by the European Council, "at the proposal of the High Representative after consulting the European Parliament and Commission approval"²⁸. Financing the Common Foreign and Security Policy is both with Member States through the "Fund Release" and the EU budget, namely "administrative costs entailed for the institutions"²⁹.

High Representative of the European Parliament is invested with the President of the Commission and Commissioners Union team³⁰. This gives legitimacy and reduce the democratic deficit that could be the fact that his appointment is based on the decision taken by the Member States and the President of the Commission³¹, without the direct involvement of citizens. On the other hand, no state is common for people to nominate Foreign Minister position corresponding duties that you will have the High Representative.

Under the Lisbon Treaty³², these tasks are: management of foreign and security policy of the Union, contributing to policy development through its proposals and ensure its proper implementation (as mandated by the Council),

Council in December 2003: "Una Europa segura en un mundo mejor", Estrategia Europea de Seguridad, 12 December 2003, <http://ue.eu.int>. Regarding the point of view of EP on these strategies, see PARLAMENTO EUROPEO, Resolución sobre la Estrategia Europea de Seguridad, 14 April 2005, Ponente: Helmut Kuhne (A6-0072/2005), <http://www.europarl.eu.int>.

²⁶ EurActiv.ro, *Tratatul de la Lisabona "pe înțelesul tuturor"*, www.euractiv.ro, *Uniunea Europeana pe scurt*, published on 10 July 2008, http://www.euractiv.ro/uniunea-europeana/articles%7CdisplayArticle/articleID_14154/Tratatul-de-la-Lisabona-pe-intelesul-tutoror.html, last accessed on 24.11.2009.

²⁷ The European Parliament, Foreign policy: aims, instruments and The achievements, The European Parliament, Parliament, In detail, Fact Sheets on the European Union, The EU's External Relations, Common Foreign and Security Policy, p. 5, http://www.europarl.europa.eu/ftu/pdf/en/FTU_6.1.1.pdf.

²⁸ Council of the European Union, the Treaty of Lisbon, Brussels, 2008, 6655/1/08 REV 1, art. 27.

²⁹ *Idem*, art. 41.

³⁰ EurActiv.ro, *Tratatul de la Lisabona "pe înțelesul tuturor"*, www.euractiv.ro, *Uniunea Europeana pe scurt*, published on 10 July 2008, http://www.euractiv.ro/uniunea-europeana/articles%7CdisplayArticle/articleID_14154/Tratatul-de-la-Lisabona-pe-intelesul-tutoror.html, last accessed on 24.11.2009.

³¹ Council of the European Union, the Treaty of Lisbon, Brussels, 2008, 6655/1/08 REV 1, art. 18.

³² *Idem*, art. 18 and 27.

chairing the Foreign Affairs Council, managing the position of Vice-President of the Commission, Union representation when dealing with issues related to the Common Foreign and Security Policy, conduct dialogue with third parties on behalf of and expression of the Union's position in international organizations (including the UN Security Council States³³) and international conferences, coordinating the European External Action Service and the Union delegations in third countries and in international organizations.

European Union henceforth legal personality, shall replace the European Community. The Treaty of Lisbon, the pillar structure disappears and the Union has a new institutional framework. Consequently, as other institutions change their name, of the judicial system as a whole will be called the *Court of Justice of the European Union*³⁴, which is composed of three courts: the Court of Justice, the Court and the Tribunal of Civil Service³⁵. This ensures the respect of the interpretation and application of treaties. Member States established the remedies sufficient to ensure effective legal protection in the fields covered by Union law. The rules of operation and organization of the present are kept mostly unchanged by the new legislation³⁶.

However, implementation of the Lisbon Treaty will lead to the establishment of a committee to give an opinion on candidates' suitability to perform the duties of Judge and Advocate General of the Court of Justice and the General Court before the governments of the Member States make the appointments. This committee consists of seven persons chosen from former members of the Court of Justice and the General Court, members of national supreme court and lawyers of which is proposed by the European Parliament. The Council adopted a decision establishing the panel's operating rules and a decision appointing its members. Shall act on the initiative of the President of the Court of Justice.

Lisbon Treaty shows that the Court of Justice shall ensure the respect of the law in interpretation and application of treaties. Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

Under the Lisbon Treaty, the Court of Justice of the European Union shall act, in accordance with the Treaties:

- on actions brought by a Member State, an institution or a natural or legal person;
- at the outset, at the request of national courts, on the interpretation of Union law or the validity of acts adopted by the institutions;
- in other cases provided for in the Treaties.

³³ *Idem*, art. 34.

³⁴ Article 19 TUE

³⁵ <http://ec.europa.eu>

³⁶ Dragomir Eduard, Niță Dan, *cited work*, p. 44 et seq.

Important to note is that this institution has jurisdiction as regards the provisions on the common foreign and security policy nor with respect to acts adopted there under.

However, the Court has jurisdiction to monitor compliance with the provisions of Article 25b of the Treaty on European Union and to rule on actions brought under the terms of the fourth paragraph of Article 230 TFEU on the legality of decisions providing for restrictive measures against natural or legal persons adopted by the Council pursuant to Title V, Chapter 2, of the Treaty on European Union³⁷.

Under the Lisbon Treaty, the Court of Auditors shall consist of one national of each Member State. Its members exercise their functions in full independence, in the general interest of the Union.

To protect the financial interests of the European Union, there are two major bodies - Court of Auditors (also known as the European Court of Auditors and the Court of Auditors) and the European Anti-Fraud Office (OLAF), the European Commission structure Commissioner who is responsible for coordinating the budget³⁸.

Court has no legal/judicial power, any deficiencies or information shall be communicated to the responsible bodies of the European Union to act accordingly. Through the recommendations of the European Court of Auditors are discovered or prevents fraud and financial irregularities.

Court contribute to improving the efficiency of taxpayers (tax payers), it guarantees a better use of taxpayer finances and is the best source of information about the use of funds.

Its autonomy vis-à-vis other institutions or bodies of the EU and the Member States shall provide the surest guarantee of performance in terms of the function they exercise control. It is therefore an important element in the functioning of the European Union, although it is not a part of the decision of the European institutional triangle made up of committed Parliament and Council.

Especially by increasing the EU budget and financial activities involving direct or indirect Union funds, it is expected that the Court of Auditors to register a sharp increase its importance in the years to come.

As we mentioned in this paper, the new Reform Treaty of Lisbon has given the status of the institution and the *European Central Bank*³⁹.

Under the new Treaty on the Functioning of the European Union, European Central Bank and national central banks constitute the European System of Central Banks ("ESCB"). European Central Bank and national central banks of Member

³⁷ García Ricardo Alonso (2010), *Lisbon and the Court of Justice of the European Union*, „Working Papers on European Law and Regional Integration”, published by Instituto de Derecho Europeo e Integración Regional, Madrid, Spain, 2010, p. 3

³⁸ Luciana-Alexandra Ghica (coord.), *Enciclopedia Uniunii Europene*, Meronia Publishing House, Bucharest, 2007, p. 73.

³⁹ http://europa.eu/legislation_summaries/institutional_affairs/treaties/lisbon_treaty/ai0011_ro.html, last accessed on 10.10.2011

States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy Union⁴⁰.

The ESCB is governed by the decision making bodies of the ECB. The primary objective of the ESCB shall be to maintain price stability. Without prejudice to that objective, it shall support general economic policies in the Union in order to contribute to the achievement of its objectives.

The European Central Bank shall have legal personality. It alone may authorize the issue of euro coins. The ECB is independent in the exercise of its finances and management. Institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

Member States whose currency is the euro, and their central banks, shall retain their powers in monetary matters under articles. In areas where its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level and deliver opinions⁴¹.

Conclusions

The new Treaty of Lisbon, known as the „Reform Treaty” provides only an amending of treaty considered fundamental (Treaty on European Union and the Treaty on European Union)⁴², as they did in their time and Treaties of Amsterdam and Nice. „The Union is founded on the present Treaty” - Treaty on European Union (TEU) - „and the Treaty on the Functioning of the Union”.

These two treaties together then become de facto post-Lisbon EU constitution. A new Union is actually "created" although the term „constitution” is not used.

Mainly to meet the objections coming from the EU Member States worried about the federal advance of the Union, from the new Treaty were suppressed all clues that could lead to the idea that the EU could turn into such a state (it disappeared, for instance, the term "constitution", and the section on EU symbols). However, the new Treaty has taken most of the innovations contained in the Constitutional Treaty, adopting the so-called "strategy of the veil".

The institutional aspect Treaty preserves the five existing Community institutions before: European Parliament, European Council, Commission, Court of Justice and Court of Auditors also making major structural-functional regulations.

Lisbon Treaty redistributes seats in the European Parliament on a proportional formula, and the maximum number was set to 750 MPs. The European Parliament has evolved in the following areas: broadening the skills, simplify the voting system to be used in 2014, the involvement of national element in the system and the correlation of PE with national parliaments. It had

⁴⁰ Article 282 of the Treaty of Lisbon

⁴¹ Dragomir Eduard, Niță Dan, *cited work*, p. 51

⁴² Treaty on European Union (TEU, Maastricht, 1992) and the Treaty establishing the European Community (Rome, 1957), which was renamed the Treaty on the Functioning of the European Union (TFEU).

institutionalized the party system. PE intensified its role in choosing the Commission President and indirectly in the proposal for appointment of commissioners. PE can also be involved in foreign policy issues through its High Representative for Foreign Affairs and Security Policy.

The voting system is simplified national parliaments receive a more important role and the EU becomes a more prominent global actor. All these tasks require the addition of the European Parliament more power and more responsibility and better defined.

European Council acquires a clear statute through the Lisbon Treaty, which states that defining the guidelines and general policy but has no legislative functions. Its composition remains the same, specifying that the High Representative for Foreign Affairs and Security Policy attend the meetings.

The European Council has an important role in the case requested by a Member State to withdraw from the Union, as provided by the Treaty of Lisbon. He gave up the rotating presidency, and to establish the position of President of the European Council.

Council consists of ministry of Member States, one from each state, depending on the areas concerned and has taken legislative powers with the EP and the Commission. The Lisbon Treaty establishes that in 2014 will be 55% qualified majority of states representing 65% of the population.

Commission shall consist of commissioners; each Member State has its own Commissioner. The Commission has right of legislative initiative, so the balance of power characteristic Community institutional system, though inclined to the Commission since the establishment of the European Communities, by which it has monopoly power on setting the policy agenda continues to favor, giving the role of institution dominant in this regard. This role is strengthened in the Treaty of Lisbon by reducing blocking force prior specific legislation Council. The new version of the "Ioannina compromise" solution requires the establishment of a possible blocking minority requiring mandatory minimum negative vote 4 Member States representing 35% of the population.

The obvious constitutional meanings present and the control mechanism acts of Community institutions by the Court of Justice of the EU. In addition to interpreting treaties, it is pronounced over the validity of acts of the institutions, offices or agencies; it may review the legality of acts, including legislation, Council, Commission, European Parliament and the European Central Bank if they are intended to produce legal effects on third parties.

Taking into account both during the "accident" of the present Treaty, and the current economic and political climate extremely tense, the possibility of renegotiating the treaty in the future appears implausible. On the other hand, because there are still many questions about how the Union will function in the future, especially in the two newly created positions, President of the European Council and High Representative for the Common Foreign and Security Policy, amendments the current Treaty on the Functioning of the two institutions, or further offered by various other specific normative documents appear as inevitable.

Bibliography

1. Der-Chin Horng, „The ECB under the Lisbon Treaty —The Impact on the ECB’s Constitutional Status and External Relations”, Institute of European and American Studies, Academia Sinica, *EURAMERICA* Vol. 40, No. 4/2010
2. Dragomir Eduard, Niță Dan, *Tratatul de la Lisabona*, Nomina Lex Publishing House, Bucharest, 2009
3. Dusan Sidjanski, *Viitorul federalist al Europei*, Polirom Publishing House, Iași, 2010
4. G. Sergiu, Gh. Jigla, O. Pecican, F. Pop, *Tratatul de la Lisabona, Uniunea Europeana catre reforma institutionala si consens*, Dacia Publishing House, Cluj-Napoca, 2008
5. García Ricardo Alonso, *Lisbon and the Court of Justice of the European Union*, „Working Papers on European Law and Regional Integration”, published by Instituto de Derecho Europeo e Integración Regional, Madrid, Spain, 2010
6. Kaurert Christian, „The area of freedom, security and justice in the Lisbon Treaty: commission policy entrepreneurship?”, *European Security*, Vol. 19, No. 2/2010
7. Laursen Finn, *The EU Treaty of Lisbon: origin, institutional choice and significance* - paper presented at the 50th Annual Conference of the International Studies Association, New York, 15 to 18 February 2009;
8. Luciana-Alexandra Ghica, coord., *Enciclopedia Uniunii Europene*, Meronia Publishing House, Bucharest, 2007
9. Mănoiu Bogdan, *Despre intrarea în vigoare a Tratatului de la Lisabona* - lecture occasioned by the conference "The entry into force of the Lisbon Treaty" to - Bucharest, 26 February 2010, organized by the Department for European Affairs www.juridice.ro
10. Mercedes Guinea Llorente, Francisco Aldecoa Luzarraga, *Europa Viitorului. Tratatul de la Lisabona*, Polirom Publishing House, Iasi, 2011
11. Mutulescu Antonia, „Punerea în aplicare a dreptului comunitar în ordinea juridică internă”, *Studii de drept românesc* no. 1/2010
12. Nam-Kook Kim, Sa-Rang Jung, „Democratic Deficit, European Constitution, and a Vision of the Federal Europe: The EU's Path after the Lisbon Treaty”, *Journal of International and Area Studies*, Volume 17, No. 2/2010
13. Pătru Ștefan Radu, „Anumite considerațiuni privind personalitatea juridică a Uniunii Europene în urma Tratatului de la Lisabona”, *Consilier European*, no. 1/2010;
14. Popescu Andrei, „Tratatul de la Lisabona – un tratat modificator și reformator al Uniunii Europene”, *Buletin de informare legislativă* no.1/2008, Legislative Council, www.clr.ro;
15. Profiroiu Marius, Profiroiu Alina, Popescu Irina, *Institutiile și Politici Europene*, Economica Publishing House, Bucharest, 2008
16. Treaty of Lisbon - consolidated version, Brussels, 30 April 2007, accessed at http://europa.eu/eu-law/treaties/index_ro.htm
17. www.europedirect.centras.ro
18. www.euractiv.ro