Parliament's new role and responsibilities implementing the Treaty of Lisbon

2008/2063(INI) - 09/03/2009

The Committee on Constitutional Affairs adopted the report drawn up by Jo LEINEN (PES, DE) on Parliament's new role and responsibilities in implementing the Treaty of Lisbon.

1. New policies

- ***New objectives and horizontal clauses***: the Charter of Fundamental Rights, representative and participatory democracy and gender equality have all been included in the Union's values and aims and have been given a prominent position. Members also welcome the introduction of horizontal provisions on a high level of employment, social protection, the fight against social exclusion, a high level of education, training and protection of human health, combating discrimination, and environmental protection. Consumer protection has been strengthened to the extent that it is to be mainstreamed into the other Union policies to be laid down and implemented, and, as a cross-cutting task, now occupies a much more prominent place.
- ***New legal bases***: MEPs underline that the broadening of the Union's external action under the Lisbon Treaty, including the provision of new legal bases and instruments affecting areas related to foreign policy (external action and the Common Foreign and Security Policy (CFSP)/Common Security and Defence Policy), necessitates a new interinstitutional balance guaranteeing adequate democratic scrutiny by Parliament. The new Treaty also provides for new legal bases in the following areas: **energy**: energy matters will now be covered by a separate Title XXI in Part Three of the TFEU and that action in that field will thus have a legal basis; **space**: MEPs stress their satisfaction at the insertion of a provision on a **European space policy** and welcome the opportunity given to Parliament and to the Council to adopt, under the ordinary legislative procedure, the necessary measures establishing a European space programme; **intellectual property rights**: the Treaty of Lisbon includes a **new legal basis providing for codecision in respect of intellectual property rights; finance**: the legal basis for the adoption of European Union measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Union will be strengthened; **criminal matters**: MEPs point out that the new Treaty provisions concerning judicial cooperation in civil and criminal matters include a legal basis for the adoption of measures to support the training of the judiciary and judicial staff. The Treaty of Lisbon also provides for the **possible establishment of a European Public Prosecutor's Office** in order to combat crimes affecting the financial interests of the Union; **child protection**: binding provisions for the protection of the rights of the child in the internal and external objectives of the European Union have been introduced; **tourism and sport**: this has been included as a new title in the Lisbon Treaty. Therefore, the Union can finally take action for the development of sport and its European dimension and can take due account of the specific nature of sport when applying other European policies.

2. New powers for the European Parliament: overall, the report welcomes the fact that, with a few exceptions, the new Treaty would place the European Parliament on an equal footing with the Council as a lawmaker in areas where this has not been case so far, notably in setting the **EU budget** (the European Parliament would enjoy full parity), **agriculture policy and justice and home affairs**. On this last issue, the area of freedom, security and justice is fully integrated into the TFEU, formally putting an end to the third pillar.

MEPs believe that the responsibility of the European Central Bank to report on monetary policy is now greater, since the ECB is recognised as an institution of the European Union. They welcome the fact that several provisions of the Statute of the European System of Central Banks (ESCB) and of the ECB can be modified after consulting Parliament.

Concerning the implementation of the **Structural Funds**, the Lisbon Treaty places Parliament on an equal footing with the Council by replacing the current assent procedure by the ordinary legislative procedure. Legislation prohibiting discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation will become subject to a special legislative procedure and will require Parliament' s consent.

MEPs welcome the fact that **codecision will henceforth apply to the Staff Regulations** of Officials of the European Union, inasmuch as this will allow Parliament to take part on an equal footing with the Council in the adjustment of those regulations.

- ***New budgetary powers***: the report notes that the Treaty of Lisbon makes sweeping changes in the area of the Union's finances, particularly as regards interinstitutional relations and decision-making procedures. The Council and Parliament must agree, within the limits of own resources, on the programming of expenditure which becomes legally binding. MEPs welcome the fact that the budget as a whole must be adopted jointly by Parliament and the Council, in compliance with the multiannual financial framework and they welcome the **abolition of the distinction between compulsory and non-compulsory expenditure**.
- ***New consent procedure***: MEPs welcome the fact that the simplified revision procedure with regard to the introduction of qualified majority voting and the introduction of the ordinary legislative procedure in a given area under Title V of the TEU or under the TFEU requires the consent of Parliament. They note the introduction of an **'exit clause'** for the Member States and underline that the agreement laying down the arrangements for the withdrawal of a Member State from the Union may not be concluded until after Parliament has given its consent. The Parliament's consent will also be required for a wide range of international agreements signed by the Union. MEPs urge that any future 'mixed' agreement combining non-CFSP and CFSP elements must normally be dealt with under a single legal basis, which should be the one directly related to the main subject matter of the agreement; notes that Parliament will have the right to be consulted, except where the agreement relates exclusively to the CFSP.
- ***New powers of scrutiny***: MEPs welcome the fact that the President of the Commission will be elected by Parliament, on a proposal of the European Council, taking into account the elections to the European Parliament. They also welcome the fact that the Vice-President of the Commission /High Representative of the Union for Foreign Affairs and Security Policy, together with the other members of the Commission, as a body, will be subject to a vote of consent by Parliament, as well as to a vote of censure, and will therefore be accountable to Parliament. They underline the need for transparency and democratic scrutiny concerning the setting-up of the European External Action Service (EEAS). There is also a need for transparency and democratic scrutiny concerning the European Defence Agency (EDA). Europol and Eurojust, will also be subject to greater parliamentary scrutiny.
- ***New rights to be informed***: the President of the European Council should keep Parliament fully informed about the preparations for European Council meetings and to give a report on the results of meetings, where possible within two working days (if necessary to a special sitting of Parliament). It should also be informed about the Presidency programmes and about the results achieved; the Union's external action; the negotiation and conclusion of international agreements.
- ***New rights of initiative***: MEPs welcome Parliament's new role in initiating amendments to the Treaties. They welcome the fact that Parliament will have the right of initiative as regards proposals

concerning its own composition, respecting the principles laid down in the Treaties. They note that Treaty of Lisbon introduces a special legislative procedure for the adoption of provisions laying down the modalities and powers of temporary committees of inquiry.

3. New procedures:

- ***Scrutiny by national parliaments:*** MEPs welcome the new rights conferred on national parliaments with regard to prior scrutiny of application of the principle of subsidiarity in all legislation of the Union. They take the view that strengthening the scrutiny of European policies by national parliaments will also raise public awareness of the Union's activities. They stress that the national parliaments' new prerogatives have to be fully respected as from the entry into force of the Treaty of Lisbon.
- ***Delegated acts***: MEPs appreciate the improvements flowing from the new provisions on legal acts and the hierarchy of norms, in particular the creation of the delegated act, which makes it possible to delegate to the Commission the power to adopt non-legislative acts of general application or to amend non-essential elements of a legislative act. They welcome in particular the provisions of Article 290(2) of the TFEU, which envisages Parliament (and the Council) having the right both to revoke the delegation of powers and to object to individual delegated acts.
- ***Implementing acts***: the report notes that the Treaty of Lisbon repeals the current Article 202 of the EC Treaty concerning implementing powers and introduces in Article 291 of the TFEU a new procedure – 'implementing acts' – that provides for the possibility of conferring implementing powers on the Commission in cases where 'uniform conditions for implementing legally binding Union acts' are needed. The report also highlights that the **Treaty of Lisbon no longer provides a basis for the present comitology procedures** and that pending legislative proposals which are not adopted before its entry into force must be modified. However, MEPs are of the opinion that an interim solution could be negotiated with the Council for the initial period, so that no obstacle would occur as a result of a possible legal void and the new regulation could be adopted by the legislator after due consideration of the Commission proposals.

4. Priorities for the transition period: MEPs ask the Commission to transmit to the co-legislators all pending proposals in respect of which new legal bases and changes in the legislative procedures apply. They point out that Parliament will decide what position it takes regarding opinions that have already been adopted in consultation procedures on matters which henceforth are to be dealt with under the ordinary legislative procedure, whether this involves confirmation of its previous position or the adoption of a new one. They stress that any confirmation of opinions as Parliament's position at first reading can be voted on by Parliament only after the Lisbon Treaty has entered into force.

They insist on the conclusion of an interinstitutional agreement precluding the adoption of pending 'third pillar' legislative proposals having a fundamental rights dimension until the entry into force of the Treaty of Lisbon, so that full judicial scrutiny will be possible in respect of such matters, while measures having no impact, or only a limited impact, on fundamental rights can still be adopted prior to its entry into force.

5. Proposals: MEPs call on the other institutions to enter into negotiations for an interinstitutional agreement covering: (i) the main objectives to be achieved by the European Union after 2009, e.g. in the form of a framework agreement between the three political institutions on a work programme for the parliamentary and Commission term starting in 2009; (ii) the implementing measures to be adopted in order to make the new Treaty a success for the institutions and for citizens of the Union; (iii) requests an update of the interinstitutional agreement between Parliament and the Council defining their working relations concerning foreign policy, including the sharing of confidential information.

MEPs call on the Council and the Commission to consider the negotiation with Parliament of a new interinstitutional agreement providing Parliament with a substantive definition of its involvement in every stage leading to the conclusion of an international agreement. They also call for the Interinstitutional Agreement on budgetary discipline and sound financial management to be reviewed.

MEPs consider that all necessary steps should be taken to create a **European information and communication policy**. The Commission is called upon to rapidly present an initiative for implementation of the 'citizens' initiative', laying down clear, simple and user-friendly conditions for the exercise of this citizens' right. Regulations on good administration should be adopted with the aim of establishing a common system of administrative law governing the European administration.

The report notes that the Treaty of Lisbon allows for the inclusion of the **European Development Fund in the budget of the Union**, which will enhance the democratic legitimacy of an important part of the EU' s development policy.

Lastly, MEPs call on the Commission and the Council to agree with Parliament on a strategy aimed at ensuring coherence between legislation adopted and the Charter of Fundamental Rights as well as the rules contained in the Treaties on policies such as preventing discrimination, protecting asylum seekers, improving transparency, data protection, the rights of minorities and the rights of victims and suspects.