

Klaus: Treaty of Lisbon: a tutorial for beginners



Every single day, I am being surprised how many people ask me what that Treaty of Lisbon is. And how many of them admit that they couldn't say even a few simple words about it to their kids or grandparents. And all of them add: why don't you explain it to us in simple terms? The treaty is not simple but I will try to do it, anyway.

1. The European Union (EU, formerly the European Communities, EC, and the European Economic Community, EEC, before that) is defined by treaties signed by the member states. These treaties are commonly named after the place where they were signed. The first treaties were the so-called Treaties of Rome in 1957. So far the latest one is the Treaty of Nice from 2001.

2. All these treaties - except for the first one - elaborate upon and modify the previous treaties. In other words, they have no meaning if separated. It is not even possible to understand them unless we have access to the other treaties. **Each treaty represents either a gradual or fundamental shift of the European integration process towards closer, tighter, and greater unification and centralization and towards the weakening of the positions and competences of the member states.**

3. There used to be a special treaty that was supposed to be radically new and it was therefore named differently, too - it was the 2004 European Constitution (or the Constitutional Treaty). Former prime minister Mr Gross signed it on behalf of the Czech Republic. That treaty differed both by its scope as well its form (it was a comprehensive text that was replacing all the previous treaties). This fact led - together with the word "Constitution" included in its name as well as its text - to the need to organize referenda in many countries in order to approve it. We know the result: the 2005 referenda in France and the Netherlands have rejected it.

4. In the context of the German EU presidency in the first half of 2007, Chancellor Ms Merkel succeeded in convincing the member states (including the Czech Republic, represented by prime minister Mr Topolánek) that the only "defect" of the Constitutional Treaty was purely:

- **its form**, because the Constitution was written as a comprehensive text. Because of this form, it was possible both to read it and understand it;

- **and a few flagrant things** reminding the readers that the EU is becoming a country (flag, anthem, president, national holiday, etc.) and ceases to be an international organization.

That's why she proposed to rewrite the Constitutional Treaty as a completely different text, namely as a collection of appendices to the existing treaties. That approach was approved in June 2007 and because the text was being completed in the second half of the year during the Portuguese EU presidency, it was named the Treaty of Lisbon.

5. However, this "new" treaty is not a marginal, and certainly not a small addition (or amendment) to the existing treaties. **It fundamentally transforms the currently valid treaties.** Despite this fact, the political elites agreed that they would try to approve this treaty in the national parliaments (to make sure that simple voters wouldn't reject the treaty again). Moreover, the treaty was being ratified extremely quickly in most countries and it has been confirmed that a few countries ratified the treaty without having its translation into their local language. The Czech Republic, where the treaty is subject to intense political scrutiny, became an exception. That's why in the Czech Republic - the only EU member country - the treaty hasn't been ratified. In fact, it hasn't even been seriously negotiated. The Polish and German parliaments have approved the treaty but the respective presidents haven't yet signed it.

6. A specific case is Ireland whose constitution requires that a referendum must take place to approve a similar document. The referendum occurred in June 2008 and the result was NO. Because the existing EU treaties require unanimous approval, one country is enough to bury the document.

The EU is thus waiting for

- a possible new referendum in Ireland - the results of the negotiations in the Czech Republic - signatures of the Polish and German presidents.

The German president is waiting for the statement from the German Constitutional Court and the Polish president, who has his own objections against the document, doesn't want to be the man who pushes the Irish to a

new poll.

7. By its essence, the Treaty of Lisbon is the rejected Constitutional Treaty because all important aspects have been kept. This observation was explicitly confirmed even by the original negotiator of the Constitutional Treaty, the former French president Giscard d'Estaing. "The proposed institutional reforms, the only ones which mattered to the drafting convention, are all to be found in the Treaty of Lisbon. They have merely been ordered differently and split up between previous treaties." ([The Independent](#), October 30th, 2007)

8. What are the main changes of the *status quo* that the treaty wants to make?

a) The Treaty of Lisbon is extensively transferring the competences from the individual member states to the "Brussels" i.e. to the EU bodies. They also include very sensitive political questions concerned with social policies, energy policies, indirect taxation, justice, security, military policies, foreign policy, etc. (It is even planned that the European Police, allowed to act throughout the EU, should be created.)

b) The treaty introduces competences that are typical for a federal state (however without the usual guarantees - even the pledges included in the Czechoslovak federal constitution valid until the end of 1992 are absent). It creates a category of exclusive competences of the union that are put above the competences of the individual countries. While the "competence sharing" i.e. the sharing of sovereignty has been the defining characteristic so far, the treaty envisions a new "European" sovereignty. Also, the new so-called supportive EU competence is being created that allows the EU to carry out actions into resorts such as "protection and improvement of human health, industry, culture, tourism, education, vocational training, youth, and sport, civil protection, administrative cooperation...". In other words, the EU will be able to interfere with practically all aspects of the countries' life. This fact is all but amplified by the treaty's failure to mention any "exclusive competences" of the member countries, i.e. a list of policies that should never be controlled from the central EU level.

c) The treaty brings a majority voting to 50 types of decisions that have been requiring unanimous voting so far. The member countries are losing one of the aspects of their sovereignty (the ability to avoid initiatives that they don't like).

d) The EU is newly defined as a legal subject which is very close to the creation of a new country.

e) The strength of the smaller countries' voting power, including the Czech one, is reduced while the relative importance of the larger countries is being increased. The principle of the equality of the countries is being suppressed while the population becomes more important. That's why the relative strength of a German vote would roughly be going to double while the relative strength of a Czech vote would be cut in half.

f) The so-called *passerelle* allows the European Council (27 heads of governments or states) to decide that a majority voting may be adopted even in policies that are normally subject to unanimity voting.

g) The treaty includes a very broadly conceived Charter of fundamental rights of the EU. This charter would be as strong as the Treaty of Lisbon itself and it will therefore expect priority over the national constitutions such as ours.

9. The Treaty of Lisbon is a step back towards the rejected European Constitution. It is a document that represents a substantial shift from a Europe of countries to a Europe of one European state. It means a shift from a voluntary and repeatedly negotiated and confirmed collaboration of the European countries in thousands of particular questions towards a forever valid dominance of the union's institutions and bodies over the member countries' institutions and bodies. The treaty leads to a deepening of the democratic deficit.

10. So far, the Czech parliament has the right to decide about all these issues. If the treaty ever becomes valid, this ability of the parliament will cease to exist.

[Václav Klaus, MF Dnes, December 27th, 2008](#)

(translation: L.Motl)

See also: a [Polish translation](#)

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