

Treaty of Lisbon

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Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community	
	
Type of treaty	Amends existing treaties
Signed	13 December 2007
Location	Lisbon, Portugal
Sealed	18 December 2007
Effective	1 December 2009
Signatories	EU Member States
Depositary	Government of Italy
Languages	23 EU languages
 Treaty of Lisbon at Wikisource	

The **Treaty of Lisbon** or **Lisbon Treaty** (initially known as the **Reform Treaty**) is an international agreement that amends the two treaties which comprise the constitutional basis of the European Union (EU). The Lisbon Treaty was signed by the EU member states on 13 December 2007, and entered into force on 1 December 2009. It amends the Treaty on European Union (TEU; also known as the Maastricht Treaty) and the Treaty establishing the European Community (TEC; also known as the Treaty of Rome). In this process, the Rome Treaty was renamed to the Treaty on the Functioning of the European Union (TFEU).

Prominent changes included the move from required unanimity to *double majority* voting in several policy areas in the Council of Ministers, a more powerful European Parliament as its role of forming a bicameral legislature alongside the Council of Ministers becomes the ordinary procedure, a consolidated legal personality for the EU and the creation of a long-term President of the European Council and a High Representative of the Union for Foreign Affairs and Security Policy. The Treaty also made the Union's bill of rights, the Charter of Fundamental Rights, legally binding.

The stated aim of the treaty was "to complete the process started by the Treaty of Amsterdam [1997] and by the Treaty of Nice [2001] with a view to enhancing the efficiency and democratic legitimacy of the Union and to improving the coherence of its action."^[1] Opponents of the Treaty of Lisbon, such as former Danish Member of the European Parliament (MEP) Jens-Peter Bonde, argued that it would centralise the EU,^[2] and weaken democracy by 'moving power away' from national electorates.^[3]

Negotiations to modify EU institutions began in 2001, resulting first in the Treaty establishing a Constitution for Europe, which was abandoned after being rejected by French and Dutch voters in 2005. After some modifications the Lisbon Treaty was proposed as an amendment of the existing Treaties which implemented many of the reforms included in the European Constitution. It was originally intended to have been ratified by all member states by the end of 2008. This timetable failed, primarily due to the initial rejection of the Treaty in 2008 by the Irish electorate, a decision which was reversed in a second referendum in 2009.

History

Background

The need to review the EU's constitutional framework, particularly in light of the accession of ten new Member States in 2004, was highlighted in a declaration annexed to the Treaty of Nice in 2001. The agreements at Nice had paved the way for further enlargement of the Union by reforming voting procedures. The Laeken declaration of December 2001 committed the EU to improving democracy, transparency and efficiency, and set out the process by which a constitution aiming to achieve these goals could be created. The European Convention was established, presided over by former French President Valéry Giscard d'Estaing, and was given the task of consulting as widely as possible across Europe with the aim of producing a first draft of the Constitution. The final text of the proposed Constitution was agreed upon at the summit meeting on 18–19 June 2004 under the presidency of Ireland.

The Constitution, having been agreed by heads of government from the 25 Member States, was signed at a ceremony in Rome on 29 October 2004. Before it could enter into force, however, it had to be ratified by each member state. Ratification took different forms in each country, depending on the traditions, constitutional arrangements, and political processes of each country. In 2005, referendums held in the Netherlands and France rejected the European Constitution. While the majority of the Member States already had ratified the European Constitution (mostly through parliamentary ratification, although Spain and Luxembourg held consultative referendums), due to the requirement of unanimity to amend the constitutional treaties of the EU, it became clear that it could not enter into force. This led to a "period of reflection" and the political end of the proposed European Constitution.

New impetus

In 2007, Germany took over the rotating EU Presidency and declared the period of reflection over. By March, the 50th anniversary of the Treaties of Rome, the Berlin Declaration was adopted by all Member States. This declaration outlined the intention of all Member States to agree on a new treaty in time for the 2009 Parliamentary elections, that is to have a ratified treaty before mid-2009.^[4]

Already before the Berlin Declaration, the Amato Group (officially the Action Committee for European Democracy, ACED) – a group of European politicians, backed by the Barroso Commission with two representatives in the group – worked unofficially on rewriting the Treaty establishing a Constitution for Europe (EU Constitution). On 4 June 2007, the group released their text in French – cut from 63,000 words in 448 articles in the Treaty establishing a Constitution for Europe to 12,800 in 70 articles.^[5] In the Berlin Declaration, the EU leaders unofficially set a new timeline for the new treaty:

- 21–23 June 2007: European Council meeting in Brussels, mandate for Intergovernmental Conference (IGC)
- 23 July 2007: IGC in Lisbon, text of Reform Treaty
- 7–8 September 2007: Foreign Ministers' meeting
- 18–19 October 2007: European Council in Lisbon, final agreement on Reform Treaty
- 13 December 2007: Signing in Lisbon
- 1 January 2009: Intended date of entry into force



Drafting

June European Council

On 21 June 2007, the European Council of heads of states or governments met in Brussels to agree upon the foundation of a new treaty to replace the rejected Constitution. The meeting took place under the German Presidency of the EU, with Chancellor Angela Merkel leading the negotiations as President-in-Office of the European Council. After dealing with other issues, such as deciding on the accession of Cyprus and Malta to the Eurozone, negotiations on the Treaty took over and lasted until the morning of 23 June 2007. The hardest part of the negotiations was reported to be Poland's insistence on square root voting in the Council of Ministers.^[6]

Agreement was reached on a 16-page mandate for an Intergovernmental Conference, that proposed removing much of the constitutional terminology and many of the symbols from the old European Constitution text. In addition it was agreed to recommend to the IGC that the provisions of the old European Constitution should be amended in certain key aspects (such as voting or foreign policy). Due to pressure from the United Kingdom and Poland, it was also decided to add a protocol to the Charter of Fundamental Rights of the European Union (clarifying that it did not extend the rights of the courts to overturn domestic law in Britain or Poland). Among the specific changes were greater ability to opt-out in certain areas of legislation and that the proposed new voting system that was part of the European Constitution would not be used before 2014 (see Provisions below).^[7]

In the June meeting, the name 'Reform Treaty' also emerged, finally clarifying that the Constitutional approach was abandoned. Technically it was agreed that the Reform Treaty would amend both the Treaty on European Union (TEU) and the Treaty establishing the European Community (TEC) to include most provisions of the European Constitution, however not to combine them into one document. It was also agreed to rename the Treaty establishing the European Community, which is the main functional agreement including most of the substantive provisions of European primary law, to "Treaty on the Functioning of the Union". In addition it was agreed, that unlike the European Constitution where a Charter was part of the document, there would only be a reference to the Charter of Fundamental Rights of the European Union to make that text legally binding.^[7] After the council, Poland indicated they wished to re-open some areas. During June, Poland's Prime Minister had controversially stated that Poland would have a substantially larger population were it not for World War II.^[8] Another issue was that Dutch prime minister Jan-Peter Balkenende succeeded in a greater role for national parliaments in the EU decision making process, as he declared this to be non-negotiable for Dutch agreement.^[9]

Intergovernmental Conference

Portugal had pressed and supported Germany to reach an agreement on a mandate for an Intergovernmental Conference (IGC) under their presidency. After the June negotiations and final settlement on a 16-page framework for the new Reform Treaty, the Intergovernmental conference on actually drafting the new treaty commenced on 23 July 2007. The IGC opened following a short ceremony. The Portuguese presidency presented a 145 page document (with an extra 132 pages of 12 protocols and 51 declarations) entitled the *Draft Treaty amending the Treaty on European Union and the Treaty establishing the European Community* and made it available on the Council of Ministers website as a starting point for the drafting process.^[10]

In addition to government representatives and legal scholars from each member state, the European Parliament sent three representatives. These were conservative Elmar Brok, social democratic Enrique Baron Crespo and liberal Andrew Duff.^[11]

Before the opening of the IGC, the Polish government expressed a desire to renegotiate the June agreement, notably over the voting system, but relented under political pressure by most other Member States, due to a desire not to be seen as the sole trouble maker over the negotiations.^[12]

October European Council

The October European Council, led by Portugal's Prime Minister and then President-in-Office of the European Council, José Sócrates, consisted of legal experts from all Member States scrutinising the final drafts of the Treaty. During the council, it became clear that the Reform Treaty would be called Treaty of Lisbon because its signing would take place in Lisbon, Portugal being the holder of presidency of the European Union at the time.

At the European Council meeting on 18 October and 19 October 2007 in Lisbon, a few last-minute concessions were made to ensure the signing of the treaty.^[13] That included giving Poland a slightly stronger wording for the revived Ioannina Compromise, plus a nomination for an additional Advocate General at the European Court of Justice. The creation of the permanent "Polish" Advocate General was formally permitted by an increase of the number of Advocates General from 8 to 11.^[14]

Signing



The plenipotentiaries standing outside the 15th century Jerónimos Monastery, which was the venue, having signed the treaty

At the meeting of the European Council in October 2007, Portugal insisted that the Treaty (then called the 'Reform Treaty') be signed in Lisbon, the Portuguese capital. This request was granted, and the Treaty was thus to be called the Treaty of Lisbon, in line with the tradition of European Union treaties. The Portuguese presidency was appointed to the job of organising the programme for a signing ceremony.^[15]

The signing of the Treaty of Lisbon took place in Lisbon, Portugal on 13 December 2007. The Government of Portugal, by virtue of holding Presidency of the Council of the European Union at the time, arranged a ceremony inside the 15th century Jerónimos Monastery, the same place Portugal's treaty of accession to the European Union (EU) was signed in 1985.^[16] Representatives from the 27 EU member states were present, and signed the Treaty as plenipotentiaries, marking the end of treaty negotiations. In addition, for the first time an EU treaty was also signed by the presidents of the three main EU institutions.

Prime Minister Gordon Brown of the United Kingdom did not take part in the main ceremony, and instead signed the treaty separately a number of hours after the other delegates. A requirement to appear before a committee of British MPs was cited as the reason for his absence.^[17]

Ratification

All EU member states had to ratify the Treaty before it could enter into law. A national ratification was completed and registered when the instruments of ratification were lodged with the government of Italy. The month following the deposition of the last national ratification saw the Treaty enter into force across the EU.

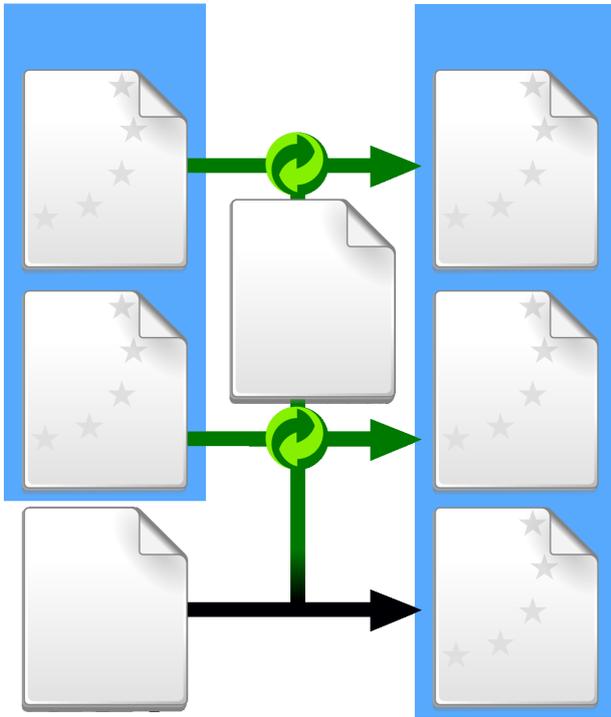
Under the original timetable set by the German Presidency of the Council of the European Union in the first half of 2007, the Treaty was scheduled to be fully ratified by the end of 2008, thus entering into force on 1 January 2009. This plan failed however, primarily due to the initial rejection of the Treaty in 2008 by the Irish electorate in a referendum, a decision which was reversed in a second referendum in 2009. Ireland, as required by its constitution, was the only member



Order in which countries ratified the Treaty (become green).

state to hold referendums on the Treaty. The Czech instrument of ratification was the last to be deposited in Rome on 13 November 2009.^[18] Therefore, the Treaty of Lisbon entered into force on 1 December 2009.^{[19] [20]}

Functioning



Treaty
establishing
the European
Community
Treaty on
European
Union
Treaty on
European
Union
Charter of
Fundamental
Rights
Treaty
of Lisbon
Treaty on the
Functioning of
the European
Union

Charter of Fundamental Rights

As an amending treaty, the Treaty of Lisbon is not intended to be read as an autonomous text. It consists of a number of amendments to the Treaty on European Union ("Maastricht Treaty") and the Treaty establishing the European Community ("Treaty of Rome"), the latter renamed 'Treaty on the Functioning of the European Union' in the process. As amended by the Treaty of Lisbon, the Treaty on European Union provides a reference to the EU's Charter of Fundamental Rights, making that document legally binding. The Treaty on European Union, the Treaty on the Functioning of the European Union and the Charter of Fundamental rights thus have equal legal value and combined constitute the European Union's legal basis.

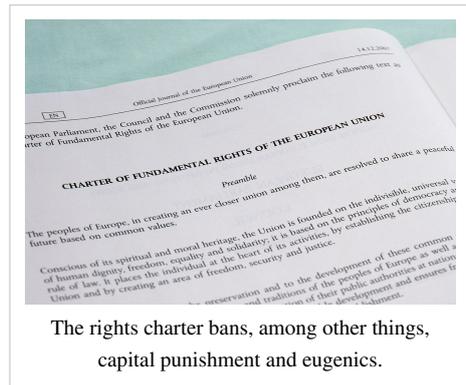
A typical amendment in Treaty of Lisbon text is:

“Article 7 shall be amended as follows: (a) throughout the Article, the word "assent" shall be replaced by "consent", the reference to breach "of principles mentioned in Article 6(1)" shall be replaced by a reference to breach "of the values referred to in Article 2" and the words "of this Treaty" shall be replaced by "of the Treaties";

The Commission has published a consolidated text ^[21] (in each community language) which shows the previous Treaties as revised by the Treaty of Lisbon.

Fundamental Rights Charter

The fifty-five articles of the Charter of Fundamental Rights (ChFR) list political, social, and economic rights for EU citizens. Under the Treaty of Lisbon, the Charter is legally binding (except for those member states with an opt-out for this provision). It is intended to make sure that European Union regulations and directives do not contradict the European Convention on Human Rights which is ratified by all EU Member States (and to which the EU as a whole has acceded under the Treaty of Lisbon^[10]). In the rejected EU Constitution, it was integrated into the text of the treaty and was legally binding. The UK, as one of the two^[22] countries with a common law legal system in the EU, and a largely uncodified Constitution, was against making it legally binding over domestic law.^{[23] [24]} The suggestion by the German presidency that a single reference to it with a single article in the amended treaties, maintaining that it should be legally binding, was implemented.^[25] Nevertheless, in an attached protocol, Poland and the United Kingdom have opt-outs from these provisions of the treaty.^[26] The Czech Republic has an assurance that the terms do not apply retrospectively. Article 6 of the Treaty on European Union elevated the Charter to the same legal value as the Treaty on European Union and the Treaty on the Functioning of the European Union.



Amendments

Summary	
<ul style="list-style-type: none"> • A European Council President with a 2½ year term <i>de facto</i> replacing the rotating presidency. • A single foreign affairs post created by merging the External Relations Commissioner with the CFSP High Representative. • Charter of Fundamental Rights from 2000 made legally binding. • Pillars merged to 1 legal person increasing the EU's competence to sign treaties. • European Council separated officially from the Council of Ministers. Legislative meetings of the Council of Ministers to be held in public. • More powerful Parliament by extending codecision with the Council of Ministers to more areas of policy. • A secession clause 	<ul style="list-style-type: none"> • More double majority voting to new areas of policy in the European Council and the Council of Ministers, from 2014 on. • National parliaments engaged by expanding scrutiny-time of legislation and enabling them to jointly compel the Commission to review or withdraw legislation. • Mutual solidarity obliged if a member state is object of a terrorist attack or the victim of a natural or man-made disaster. • Citizens' Initiative to be considered by the Commission if signed by 1 million citizens. • Combating climate change explicitly stated as an objective. • Enhanced co-operation extended to CSDP issues. • An External Action Service
<p>Foreseen initiatives, pending member states further implementation decision:</p> <ul style="list-style-type: none"> • EU Public Prosecutor • Permanent Structured Cooperation in Defence 	

Central Bank

The European Central Bank gained the official status of being an EU institution, and the European Council was given the right to appoint presidents of the European Central Bank through a qualified majority vote. On a related topic, the euro became the official currency of the Union (though not affecting opt-outs or the process of Eurozone enlargement).

Judiciary

The Court of First Instance was with the Treaty of Lisbon renamed the General Court. The Civil Service Tribunal and the European Court of Justice (formerly named the *Court of Justice of the European Communities*, and formally called only *Court of Justice* after the Treaty of Lisbon), along with the General Court, were established as sub-courts of a new EU institution named the Court of Justice of the European Union.

The jurisdiction of the courts continued to be excluded from matters of foreign policy, though new jurisdiction to review foreign policy sanction measures, as well as certain 'Area of Freedom, Security and Justice' (AFSJ) matters not concerning policing and criminal cooperation, were added.^{[27] [28]}

Council of Ministers

Voting weights in both the Council of Ministers and the European Council

member state	Nice		Lisbon	
	votes	%	pop. in millions	%
 Germany	29	8.4%	82	16.5%
 France	29	8.4%	64	12.9%
 United Kingdom	29	8.4%	62	12.4%
 Italy	29	8.4%	60	12.0%
 Spain	27	7.8%	46	9.0%
 Poland	27	7.8%	38	7.6%
 Romania	14	4.1%	21	4.3%
 Netherlands	13	3.8%	17	3.3%
 Greece	12	3.5%	11	2.2%
 Portugal	12	3.5%	11	2.1%
 Belgium	12	3.5%	11	2.1%
 Czech Republic	12	3.5%	10	2.1%
 Hungary	12	3.5%	10	2.0%
 Sweden	10	2.9%	9.2	1.9%
 Austria	10	2.9%	8.3	1.7%
 Bulgaria	10	2.9%	7.6	1.5%
 Denmark	7	2.0%	5.5	1.1%
 Slovakia	7	2.0%	5.4	1.1%
 Finland	7	2.0%	5.3	1.1%
 Ireland	7	2.0%	4.5	0.9%
 Lithuania	7	2.0%	3.3	0.7%
 Latvia	4	1.2%	2.2	0.5%
 Slovenia	4	1.2%	2.0	0.4%
 Estonia	4	1.2%	1.3	0.3%
 Cyprus	4	1.2%	0.87	0.2%
 Luxembourg	4	1.2%	0.49	0.1%
 Malta	3	0.9%	0.41	0.1%
total	345	100%	498	100%
required majority	255	74%	324	65%

The treaty has expanded the use of qualified majority voting (QMV) in the Council of Ministers by having it replace unanimity as the standard voting procedure in almost every policy area. Moreover, taking effect in 2014, the definition of a *qualified majority* will change: A qualified majority is reached when at least 55% of all member states, who comprise at least 65% of EU citizens, vote in favour of a proposal. When the Council of Ministers is

acting neither on a proposal of the Commission nor on one of the High Representative, QMV requires 72% of the member states while the population requirement remains the same. To block legislation, at least 4 countries (representing at least 35% of the EU population) have to vote against the proposal. Hence, the voting powers of the member states are based on their population, and are no more dependent on a negotiable system of voting points.

The current rules for QMV, as set in the Treaty of Nice, require a majority of countries (50% / 67%), voting weights (74%), and population (62%). This rule remains in place until 2014. Between 2014 and 2017 a transitional phase will take place where the new QMV rules apply, but where the old Nice treaty voting weights can be applied when a member state wishes so. Moreover, from 2014 a new version of the 1994 "Ioannina Compromise" will take effect, which allows small minorities of EU states to call for re-examination of EU decisions.^[29]

The treaty instructs that legislative procedural meetings (that include debate and voting) in the Council of Ministers will be held in public (televised).

The Presidency of the Council of Ministers, which is rotated among member states every six months, is added the element of a "Triple Presidency" formed by three consecutive Presidencies in order to provide more continuity to their conduct. Moreover, the Foreign Affairs Council (one configuration of the Council of Ministers), is no more chaired by the representative of the member state holding the Presidency, but rather by the person holding the newly created post of High Representative.

Additionally the Euro Group sub-unit of ECOFIN Eurozone countries was formalized.

European Council

The European Council officially gains the status of an EU institution, thus being separated from the Council of Ministers. It continues to be composed of the heads of state or government of the Union's member states along with the (nonvoting) President of the European Commission.

A President of the European Council has been appointed for a two and a half year term in a qualified majority vote of the European Council. A President could be reappointed once, and besides be removed by the same voting procedure. Unlike the post of President of the European Commission, the appointment of the President of the European Council does not have to reflect the composition of the European Parliament.^[30] The President's work will largely be administrative, as he or she is responsible for coordinating the work of the European Council, hosting its meetings and reporting its activities to the European Parliament after each meeting and at the beginning and end of his or her term. Additionally, the President is to provide external representation to the Union.

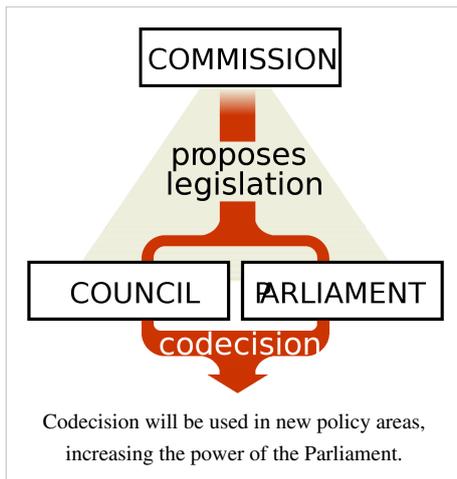
Under the Treaty of Lisbon, the European Council gets a greater say over police and justice planning, foreign policy and constitutional matters, including: the composition of the Parliament and Commission; matters relating to the rotating presidency; the suspension of membership rights; changing the voting systems in the treaties bridging clauses; and nominating the President of the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The High Representative, along with the new post of President, are the only formal changes in composition. Further more, under the *emergency break* procedure, a state may refer contentious legislation from the Council of Ministers to the European Council if it is outvoted in the Council of Ministers, notwithstanding that it may still be outvoted in the European Council.^{[30] [31] [32]}

Parliament

MEPs under the Lisbon Treaty

member state	2007	2009	Lisbon
 Germany	99	99	96
 France	78	72	74
 Italy	78	72	73
 United Kingdom	78	72	73
 Spain	54	50	54
 Poland	54	50	51
 Romania	35	33	33
 Netherlands	27	25	26
 Belgium	24	22	22
 Czech Republic	24	22	22
 Greece	24	22	22
 Hungary	24	22	22
 Portugal	24	22	22
 Sweden	19	18	20
 Austria	18	17	19
 Bulgaria	18	17	18
 Finland	14	13	13
 Denmark	14	13	13
 Slovakia	14	13	13
 Ireland	13	12	12
 Lithuania	13	12	12
 Latvia	9	8	9
 Slovenia	7	7	8
 Cyprus	6	6	6
 Estonia	6	6	6
 Luxembourg	6	6	6
 Malta	5	5	6
total	785	736	751

The legislative power of the European Parliament increases, as the codecision procedure with the Council of the EU is extended to new areas of policy. This procedure is slightly modified and renamed *ordinary legislative procedure*.



In the few remaining areas, called "special legislative procedures", Parliament now has either the right of consent to a Council of the EU measure, or vice-versa, except in the few cases where the old Consultation procedure applied, wherein the Council of the EU will need to consult the European Parliament before voting on the Commission proposal and take its views into account. It will not be bound by the Parliament's position but only by the obligation to consult it. Parliament would need to be consulted again if the Council of Ministers deviated too far from the initial proposal.

The Commission will have to submit each proposed budget of the European Union directly to Parliament, which must approve the budget in its entirety.

The Treaty changes the way in which MEP seats are apportioned among member states. Rather than setting out a precise number (as it was the case in every previous treaty), the Treaty of Lisbon gives the power to the Council of the EU, acting unanimously on the initiative of the Parliament and with its consent, to adopt a decision fixing the number of MEPs for each member state. Moreover the treaty provides for the number of MEPs to be digressively proportional to the number of citizens of each member state. A draft decision fixing the apportionment of MEPs was annexed to the treaty itself and had Lisbon been in force at the time of 2009 European Parliament elections the apportionment would have been^[33] :

The number of MEPs will be limited to 750, in addition to the President of the Parliament. Additionally, the Treaty of Lisbon will reduce the maximum number of MEPs from each member state from 99 to 96 (affects Germany) and increases the minimal number from 5 to 6 (affects Estonia, Cyprus, Luxembourg and Malta).

National parliaments

The Treaty of Lisbon expands the role of Member States' parliaments in the legislative processes of EU institutions, giving them a greater role in responding to new applications for membership. National parliaments will be able to veto measures furthering judicial cooperation in civil matters.

When the Treaty of Lisbon enters into force, national parliaments are to contribute to the good functioning of the Union through receiving draft EU legislation, seeing to it that the principle of subsidiarity is respected, taking part in the evaluation mechanisms for the implementation of the Union policies in the area of freedom, security and justice, being involved in the political monitoring of Europol and the evaluation of Eurojust's activities, being notified of applications for EU accession, taking part in the inter-parliamentary cooperation between national parliaments and with the European Parliament.

The Treaty of Lisbon allows national parliaments eight weeks to study legislative proposals made by the European Commission and decide whether to send a reasoned opinion stating why the national parliament considers it to be incompatible with the principle of subsidiarity. National parliaments may vote to have the measure reviewed. If one third (or one quarter, where the proposed EU measure concerns freedom, justice and security) of national parliaments are in favour of a review, the Commission would have to review the measure and if it decides to maintain it, must give a reasoned opinion to the Union legislator as to why it considers the measure to be compatible with subsidiarity.

Commission

The Commission of the European Communities will officially be renamed *European Commission*.^[10]

The Treaty of Lisbon stated that the size of the Commission will reduce from one per member state to one for two thirds of member states from 2014. This would have ended the arrangement which has existed since 1957 of having at least one Commissioner for each Member State at all times. However, the Treaty also provided^[34] that the European Council could unanimously decide to alter this number. Following the Irish referendum, the European Council decided in December 2008 to revert to one Commissioner per member state with effect from the date of entry into force of the Treaty.^[35]

The person holding the new post of *High Representative of the Union for Foreign Affairs and Security Policy* automatically becomes also a Vice-President of the Commission.

Foreign relations and security

High Representative

In an effort to ensure greater coordination and consistency in EU foreign policy, the Treaty of Lisbon will create a *High Representative of the Union for Foreign Affairs and Security Policy*, de facto merging the post of High Representative for the Common Foreign and Security Policy and the European Commissioner for External Relations and European Neighbourhood Policy. The new High Representative will also become a Vice-President of the Commission, the administrator of the European Defence Agency but not the Secretary-General of the Council of Ministers, which will become a separate post. He or she will have a right to propose defence or security missions. In the proposed constitution this post was called the *Union Minister of Foreign Affairs*.^{[7] [36]}

The High Representative for Foreign Affairs and Security Policy will be in charge of an External Action Service that also is created by the Treaty of Lisbon. This will essentially be a common Foreign Office or Diplomatic Corps for the Union.

Mutual solidarity

Under the Treaty of Lisbon, Member States should assist if a member state is subject to a terrorist attack or the victim of a natural or man-made disaster^[37] (but any joint military action is subject to the provisions of Article 31 of the consolidated Treaty of European Union, which recognises various national concerns). In addition, several provisions of the treaties have been amended to include solidarity in matters of energy supply and changes to the energy policy within the EU.

Defence prospects

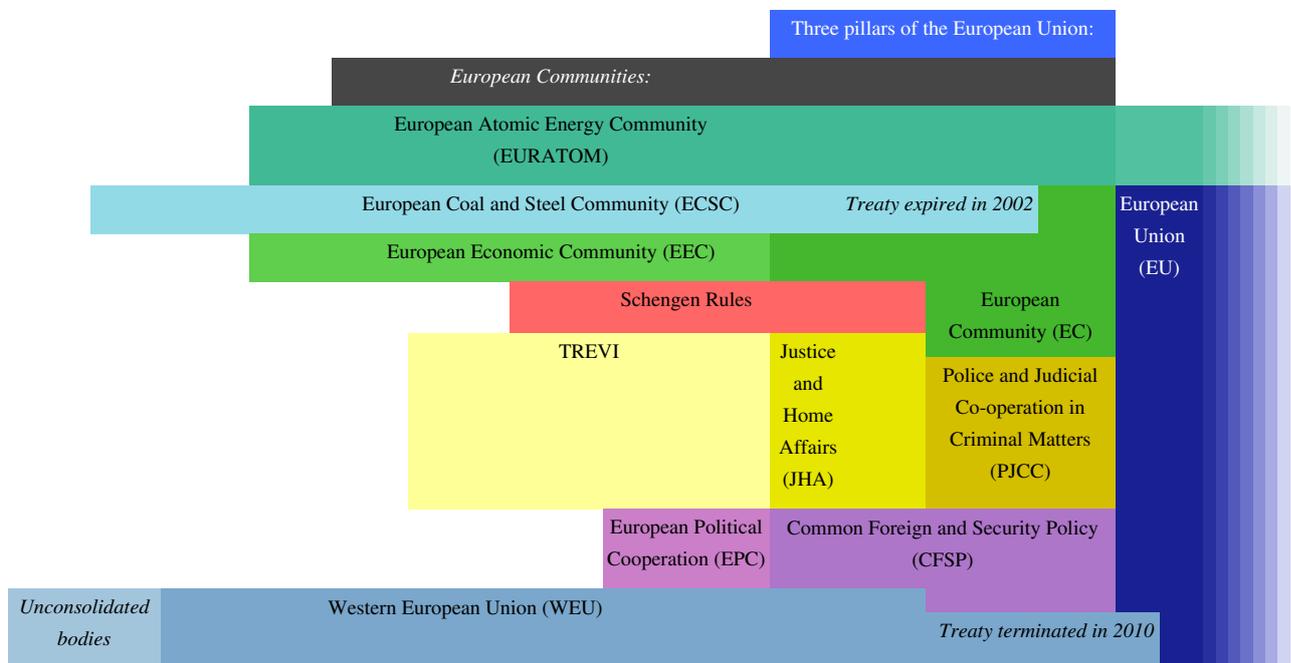
The treaty foresees that the European Security and Defence Policy will lead to a common defence agreement for the EU when the European Council resolves unanimously to do so, and provided that all member states give their approval through their usual constitutional procedures.^[38] Additionally, the area of defence has become available to enhanced co-operation, potentially allowing for a defence integration that excludes member states with policies of neutrality. Countries with significant military capabilities are envisioned to form a Permanent Structured Cooperation in Defence.

Legal consolidation

Prior to the entry into force of the Treaty of Lisbon, the Union comprised a system of three legal pillars, of which only the European Communities pillar had its own legal personality. The Treaty of Lisbon abolished this pillar system, and as a consolidated entity, the European Union succeeded the legal personality of the *European Communities*. Therefore, the EU is now able to sign international treaties in its own name. The European Union gained for example membership of the World Trade Organization immediately after the entry into force of the Treaty

of Lisbon, since the European Communities was a member of that organisation.^[10]

Signed	1948	1951	1954	1957	1965	1975	1985	1986	1992	1997	2001	2007
In force	1948	1952	1955	1958	1967	N/A	1985	1987	1993	1999	2003	2009
Document	Brussels Treaty	Paris Treaty	Modified Brussels Treaty	Rome Treaties	Merger Treaty	European Council conclusion	Schengen Treaty	Single European Act	Maastricht Treaty	Amsterdam Treaty	Nice Treaty	Lisbon Treaty



Defined policy areas

In the Lisbon Treaty the distribution of competences in various policy areas between Member States and the Union is explicitly stated in the following three categories:

As outlined in Part I, Title I of the consolidated Treaty on the Functioning of the European Union:

Exclusive
competence:

Shared competence:

Supporting competence:

"The Union has exclusive competence to make directives and conclude international agreements when provided for in a Union legislative act."

- the customs union
- the establishing of the competition rules necessary for the functioning of the internal market
- monetary policy for the Member States whose currency is the euro
- the conservation of marine biological resources under the common fisheries policy
- common commercial policy

<p><i>"Member States cannot exercise competence in areas where the Union has done so."</i></p> <ul style="list-style-type: none"> • the internal market • social policy, for the aspects defined in this Treaty • economic, social and territorial cohesion • agriculture and fisheries, excluding the conservation of marine biological resources • environment • consumer protection • transport • trans-European networks • energy • the area of freedom, security and justice • common safety concerns in public health matters, for the aspects defined in this Treaty 	<p><i>"Union exercise of competence shall not result in Member States being prevented from exercising theirs in:"</i></p> <ul style="list-style-type: none"> • research, technological development and space • development cooperation, humanitarian aid <p><i>"The Union coordinates Member States policies or implements supplemental to their common policies, not covered elsewhere"</i></p> <ul style="list-style-type: none"> • coordination of economic, employment and social policies • common foreign, security and defence policies 	<p><i>"The Union can carry out actions to support, coordinate or supplement Member States' actions in:"</i></p> <ul style="list-style-type: none"> • the protection and improvement of human health • industry • culture • tourism • education, youth, sport and vocational training • civil protection (disaster prevention) • administrative cooperation
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Enlargement and secession

A proposal to enshrine the Copenhagen Criteria for further enlargement in the treaty was not fully accepted as there were fears it will lead to Court of Justice judges having the last word on who could join the EU, rather than political leaders.^[36]

The treaty introduces an exit clause for members wanting to withdraw from the Union. This formalises the procedure by stating that a member state must inform the European Council before it can terminate its membership. There has been one instance where a territory has ceased to be part of the Community (Greenland in 1985).

A new provision in the Treaty of Lisbon is that the status of French, Dutch and Danish overseas territories can be changed more easily, by no longer requiring a full treaty revision. Instead, the European Council may, on the initiative of the member state concerned, change the status of an overseas country or territory (OCT) to an outermost region (OMR) or vice versa.^[39] This provision was included on a proposal by the Netherlands, which is investigating the future of the Netherlands Antilles and Aruba in the European Union as part of an institutional reform process that is currently taking place in the Netherlands Antilles.

Revision procedures (Article 48 TEU)

The Lisbon Treaty creates two different ways for further amendments of the European Union treaties: an ordinary revision procedure which is broadly similar to the present process in that it involves convening an intergovernmental conference, and a simplified revision procedure whereby Part three of the Treaty on the Functioning of the European Union, which deals with internal policy and action of the Union, could be amended by a unanimous decision of the European Council subject to ratification by all member states in the usual manner.

The Treaty also provides for the Passerelle Clause which allows the European Council to unanimously decide to move from unanimous voting to qualified majority voting, and move from a special legislative procedure to the ordinary legislative procedure.

Ordinary revision procedure

1. Proposals to amend the treaties are submitted by a Member State, the European Parliament or the European Commission to the Council of Ministers who, in turn, submit them to the European Council and notify member states. There are no limits on what kind of amendments can be proposed.
2. The European Council, after consulting the European Parliament and the Commission, votes to consider the proposals on the basis of a simple majority, and then either:
 - The President of the European Council convenes a convention containing representatives of national parliaments, governments, the European Parliament and the European Commission, to further consider the proposals. In due course, the convention submits its final recommendation to the European Council.
 - Or the European Council decide not to convene a convention and set the terms of reference for the inter-governmental conference themselves.
3. The President of the European Council convenes an inter-governmental conference consisting of representatives of each member-state's government. The conference drafts and finalises a treaty based on the convention's recommendation or on the European Council's terms of reference.
4. EU leaders sign the treaty.
5. All member states must then ratify the treaty "in accordance with their respective constitutional requirements", if it is to come into force.

Simplified revision procedure

1. Proposals to amend Part three of the Treaty on the Functioning of the European Union are submitted by a Member State, the European Parliament or the European Commission to the Council of Ministers who, in turn, submit them to the European Council and notify member states. Proposed amendments cannot increase the competences of the Union.
2. The European Council, after consulting the European Parliament and the Commission, votes to adopt a decision amending Part three on the basis of the proposals by unanimity.
3. All member states must approve the decision "in accordance with their respective constitutional requirements", if it is to come into force.

The Passerelle Clause

The treaty also allows for the changing of voting procedures without amending the EU treaties. Under this clause the European Council can, after receiving the consent of the European Parliament, vote unanimously to:

- allow the Council of Ministers to act on the basis of qualified majority in areas where they previously had to act on the basis of unanimity. (This is not available for decisions with defence or military implications.)
- allow for legislation to be adopted on the basis of the ordinary legislative procedure where it previously was to be adopted on the basis of a special legislative procedure.

A decision of the European Council to use either of these provisions can only come into effect if, six months after all national parliaments had been given notice of the decision, none object to it.

Opt-outs

Fundamental Rights Charter

The *Charter of Fundamental Rights of the European Union* interpreted by the European Court of Justice is not to apply fully to the United Kingdom, Poland, and the Czech Republic although it would still bind the EU institutions and apply to the field of EU law:

Article 1

1. The Charter does not extend the ability of the Court of Justice of the European Union, 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.
2. 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.

Article 2

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.

—Reform Treaty - Protocol (No 7)^[40]

Though the Civic Platform party in Poland had signalled during the 2007 parliamentary elections that it would not seek to opt-out from the Charter,^[41] Prime Minister Tusk has since stated that Poland will not sign up to the Charter. Tusk declared that the deals negotiated by the previous Polish government will be honoured,^[42] though suggested that Poland may eventually sign up to the Charter at a later date.^[43]

In order to ensure ratification of the treaty by the Czech Republic, the European Council agreed that the opt-out from the Charter would also extend to the Czech Republic. The protocol will be amended to include the Czech Republic in the next treaty of accession. This was in response to demands of Václav Klaus, the Czech President, who feared that the Charter could enable claims by German post World War II expellees despite assurances to the contrary given to the Czech Republic and Slovakia, where the degrees remain applicable.^[44]

QMV in police and judicial affairs

The United Kingdom and Ireland have opted out from the change from unanimous decisions to qualified majority voting (QMV) in the sector of police and judicial affairs; this decision will be reviewed in Ireland three years after the treaty enters into force. Both states will be able to opt in to these voting issues on a case-by-case basis.

Provisions in the Treaty framework draft from the June 2007 summit stated that the division of power between Member States and the Union is a two-way process, implying that powers can be taken back from the union.^[36]

Impact

The exact impact of the treaty on the functioning of the EU was not fully foreseen (uncertainties which have led to calls for another new treaty in response to the economic crisis in the late 2000s^[45]). As its impact is assessed, the biggest winners from Lisbon have been Parliament, with its increase in power, and the European Council. The first months under Lisbon have seen a shift in power and leadership from the Commission, the traditional motor of integration, to the European Council with its new President and budget.^[46] The split between the Commission and European Council Presidents also rapidly led to rivalry and unwieldy compromises; such as both Presidents attending international summits rather than agreeing on just one of them. There is some expectation that the posts may be merged, as allowed under Lisbon, by 2012 or 2014 when their two mandates expire.^[47]

Parliament used its greater powers over the appointment of the Commission to gain further privileges from President Barroso^[48] and it used its budgetary powers as a veto over how the External Action Service should be set up.^[49] It also applied its new power over international agreements to rapidly block the SWIFT data sharing deal with the US^[50] and threatened to do so over a free trade agreement with South Korea.^[51]

Like the Commission, the Council of Ministers has, relatively, lost power due to Lisbon. Its dynamic has also changed as member states have lost their veto in a number of areas. As a result, they have had to come up with stronger arguments faster in order to win a vote.^[46]

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- Article 311 shall be repealed. A new Article 311a shall be inserted, with the wording of Article 299(2), first subparagraph, and Article 299(3) to (6); the text shall be amended as follows:
- [...]
- (e) the following new paragraph shall be added at the end of the Article:
- "6. The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2. The European Council shall act unanimously after consulting the Commission."
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