

A New Inter-institutional Balance: Supranational vs. Intergovernmental Method

After the Lisbon Treaty

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1. Introduction

The present contribution is aimed at assessing the new inter-institutional balance resulting from the Treaty of Lisbon in the light of the global evolution of the EU integration process, of which the Treaty is, albeit, a further but not a final step.

Taking into account the fact that the Lisbon Treaty supersedes the European Community, it has been suggested that, in place of a Community method, a supranational method, as opposed to the intergovernmental method, should be used.

Having said that, it may also be useful to remember that the Community method is centered on the key role of the European Institutions, that of the promotion and protection of the general interest: traditionally, this is the European Commission and the European Court of Justice, as well as the European Parliament which represents the European citizens. When a Treaty strengthens those institutions, it also reduces the power of national governments to influence the European decision making process. On the other hand the intergovernmental method is based on a preponderant role of the intergovernmental institutions, i.e. the European Council and the Council, with a small involvement of the other institutions. This method is even less supranational when such institutions must decide in unanimity, so respecting the classic principle of international law according to which national sovereignty can only be limited by consent of all the States concerned. In the following paragraphs the evolution of the powers determined by the Lisbon Treaty will be taken into exam with reference to the single institutions in order to assess the new inter-institutional balance of powers.

2. The Intergovernmental side

The key political question that inspired the negotiations, first of the Constitutional Treaty and then of the Lisbon Treaty, was how to redesign the external representation of the European Union in order to ensure better visibility and more coherent actions. With this aim, the “intergovernmental side” of the European institutional machine has been transformed, notably by strengthening the role of the European Council and of its (new) permanent President.

According to the new article 10 of the TEU, Member States are both represented in the European Council by their Heads of State or Government and in the Council by the members of their governments. After a long historical evolution, from sporadic meetings of Heads of States and Governments to a regular gathering every six-months (since 1974), and then to a sort of institutions whose powers (but not whose status) were recognized by the Maastricht Treaty, the European Council becomes with the Lisbon Treaty a fully-fledged Institution, since article 13 TEU expressly mentions it in the institutional framework.

The European Council is involved in many different procedures entailing “high policy” or highly controversial decisions: it declares a serious breach of fundamental values by a Member State (article 7 TEU), it will decide on the future composition of the European Parliament and of the 2014 Commission, it proposes the candidate President of the Commission, appoints the CFSP High Representative with the agreement of the President of the Commission. With the Lisbon Treaty the European Council plays a new role in the procedures of the Treaty revisions, accession of new member states and withdrawal of members from the EU. Moreover, the European Council acquires an explicit role as last resort political arbiter, not only in the new “Ioannina Compromise” (article 31 TEU), but also in the many cases of “emergency brakes” provided by the Treaty on the Functioning of the European Union in sensitive matters (articles 48, 82, 83, 86, 87).

In some fields, the European Council is the key institution: it establishes the strategic interests and general objectives of External Action, has a prominent role in defining and implementing decisions in the common foreign and security policy, in the freedom security and justice area as well as in economic and monetary matters. But, more generally, the European Council becomes the true policy maker of the EU providing the general political impetus and setting the legislative directions and priorities. In so doing, it has transformed the Commission’s power of proposing legislation into a sort of technical power. If at the beginning of European integration, the legislative priorities were indicated by the institutions devoted to promoting the general interest, the latter is now only deputed to transform the political priorities, established by the Heads of State and Governments, into legislative drafts. The Commission maintains of course, the right of proposing something different from what has been indicated by the European Council but experience shows that this rarely occurs: nevertheless the Council has recently reproached the Commission for not having faithfully fulfilled the indication contained in the Stockholm Program. As it is quite easy to follow the discussions of the Ministers in the Council, the path indicated by the European Council proves to be a fast lane for the Commission with regards to making proposals .

The European Council may play a useful role whenever a serious political problem arises, or when the decision making process is at an *impasse*. The Treaty of Lisbon makes transparent and explicit what had been achieved in practice through the years. The political authority of the European Council will not be discussed here, but should the setting of the political priorities of the European Union be left only to an institution which represents the interests of the States and whose *modus decidendi* is necessarily based on political compromise? If the Commission’s political role in proposing the legislation of the European Union is fading away, only a substantive contribution of the European Parliament could balance the intergovernmental side when new legislation has to be adopted .

A further enhancement of the intergovernmental side of the European institutional machine stems from the creation of the President of the European Council. According to article 15 TEU, the President of the European Council could seem as not much more than a simple chairman. He chairs it and drives forward the work of the European Council on the basis of the work of the General Affairs Council, ensuring their preparation and continuing cooperation with the President of the Commission. He is supposed to facilitate the consensus within the European Council, to present a report to the European Parliament after each of the meetings of the European Council. Such an information takes the place of the previous mechanism according to which it was The European Council which reported to the European Parliament (Article 4 TEU in Nice version) and it has to be seen whether it will represent a step forward or backward in the democratization of the interinstitutional dialogue. According to the same Article if international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy. On the external side, he should ensure at his level the external representation of the Union on issues concerning CFSP without prejudice to the powers of the High Representative.

But, as so often happens, the actor is more important than the plot. Mr. Van Rompuy has proven to be much more than a simple chairman. With an intelligent use of his powers he is acquiring an authoritative standing and a proactive role. Thanks to his permanent position, he outclassed not only the rotating presidency but also the High Representative; together with the latter he has confined the national Minister for Foreign Affairs in a minor role during the European Council Meetings where they are no more systematically invited and in the external relations since he meets alone or with the Commission President foreign Chiefs of State. Additionally, by holding monthly meetings, he is simultaneously propelling the role of the European Council and his own by the facto playing the coordination role which is the formal duty of the General Affairs Council. The Belgian rotating presidency of the second semester of 2010 will probably give him the chance to further improve his position. Mr. Van Rompuy recently stressed that the Spanish Presidency felt in a sort of transitional period and that he would have only gradually exercised his own prerogative. With the help of the Belgian presidency he can now consolidate his stronger role and affirm it as a general rule.

The intergovernmental side of the European institutional machine is completed by the Council of Ministers. The Lisbon Treaty should speed up the decisional process: by introducing the Ordinary Legislative Procedure and the qualified majority voting in most of the European policies it allows the Council to overcome the national vetoes. Moreover, from 2014 the simpler double majority will take the place of the current, complicated voting system.

On the other hand, the global position of the Council in the inter-institutional balance is not strengthened by the Lisbon Treaty and it resents the rise of the other institutions. As far as the relations with the European Parliament are concerned, it is clear that the Council must share an increasing amount of its legislative powers with the Assembly. This is clearly the case when powers should be "delegated" to the Commission (new art. 290 of the TFUE) and it remains an open question for the future legal framework to be established according to art. 291 TFUE for the "mechanisms for control by Member States of the Commission's exercise of implementing powers" (former "Comitology" domain). In addition, the new strengthened role given by the Lisbon Treaty

to national Parliaments (art. 12 TEU) can further limit the marge of maneuver of the members of national Governments in the Council.

With regards to European Council, the Council is assuming a functional role, implementing the political decisions of the latter and the role of rotating Presidencies is diminished by the action of the President of the European Council and of the High Representative of the External Action Service.

As far as the latter is concerned the repartition of the tasks of the High Representative are not entirely clear, even if the rotating Presidency is to chair the Trade and Development formations. The recent practice shows that the new powers of the High Representative, who chairs the External Relations Council, are tarnishing the role of the national Foreign Affairs Ministers, even more so since Mr. Van Rompuy excluded them from the meetings of the European Council.

The system of rotating presidencies, which was in force before the Lisbon Treaty, surely had some shortcomings: it was difficult to understand outside of Europe, it was not able to ensure a clear external representation of EU and of the CFSP and it was too brief for granting a durable political impact. On the other hand, it provided a single decisional backbone, with an integrated management of all the meetings of Heads of States, of Ministers and of Ambassadors in the Coreper. In the new system it is not clear who will watch over the cross coherence of the different EU fields of legislation, as there is no evidence that the General Affairs Council is engaged in such a task .

3. Does the High Representative for the External Action stand more on the intergovernmental, or on the supranational side?

In order to attain a better external visibility of the European Union, the Lisbon Treaty reshaped the role of the former High Representative for the Common Foreign and Security Policy, who now represents more the External Action of the European Union.

In comparison with her predecessor Javier Solana, the post-Lisbon High Representative plays many different roles: besides being Vice-president of the Commission charged with External Relations and chairing the External Relations Council, she is going to lead the European External Action Service, a third job which is itself very demanding. The first months of her mandate – mainly dedicated to the establishment of the EEAS - showed the fatigue of keeping the pace.

The different roles are sometimes difficult to combine. Due to her presence in both Council and Commission, the High Representative should embody a perpetual search of compromise between the two methods. Nevertheless she sometime seems to be more concerned with her intergovernmental tasks: for instance, the fact that Ms Ashton didn't take oath before the Court of Justice together with the other Commissioners, could be questioned. On the other hand Ms Ashton, although often criticized for her scarce involvement in public events, is overshadowing the national Ministers of Foreign Affairs, especially the one of the rotating Presidency, with the help of the President of the European Council.

The High Representative is part both of the intergovernmental and the supranational method, representing in institutional terms a type of clearing house of different points of view. Only a well balanced synthesis of the High Representative's double nature can help to address the real problem of providing the Union's single voice. In so doing, the High Representative must respect the attributions of the President of the European Council and of other Commissioners (in particular those of Development and Trade).

How such a repartition will work in practice within the respective inter-institutional relations, is yet to be seen, though hopefully this will be carried out in a manner of coordination rather than competition. Of course the problem goes beyond the persons and involves the delimitation of powers between the European Union and the Member States. However, recent disputes in negotiating international agreements show that it is still difficult for the European Union to speak with a single voice. In the case of the UN talks on mercury, the High Representative, the Commission and the Member States all claimed to be competent, which only resulted in weakening the overall European position on the international stage.

4. The Commission: a battlefield of the two methods.

The Commission, considered in the original EEC system as the pivot of the Community method, has along the years progressively lost its political leadership, becoming an eminently technical institution. A more inter-governmental approach, based on negotiation and compromise, characterized the last mandates of the Commission. This is possibly due to the fact that the rule to attribute one Commissioner to every state may induce Member States to consider their Commissioner as an ambassador of national positions. The Lisbon Treaty prescribes to reduce the number of Commissioners from 2014 unless the European Council unanimously decides differently. As a political agreement in this sense is said to have been already concluded, there are few hopes that the number of Commissioners will be diminished.

The Lisbon Treaty did not strengthen the role of the Commission, at least in the traditional sense. Firstly, the presence of the Vice President and High Representative of the EU External Action could undermine the authority of the President of the Commission, who can dismiss every Commissioner but the High Representative. This seems unlikely with the current Ashton/Barroso relationship but the possibility of this occurring in future Commissions cannot be excluded.

Secondly, the intervention of the Commission in the law making procedure seems to be weaker. In the codecision procedure, whose application has been extended, over 70% of the acts pass in first reading with a direct agreement between the European Parliament and Council, therefore bypassing the Commission. The delegation functions will be jointly monitored by the Commission and the Parliament and can be revoked. The Commission, who has the power of proposing EU acts, resents the increasing influence of the European Council and will, in some cases, share its competencies with Member States as it is already clear that reaching the threshold of $\frac{1}{4}$ of the states prescribed by the Lisbon Treaty in the Freedom Security and Justice Area, is not too arduous and several proposals have already been presented .

Thirdly, as has been mentioned above, the Commission increasingly has to submit to the control of the European Parliament. Although the Commissioners are designated by the States, the Commission is politically responsible towards the European Parliament, which must elect them, but can also dismiss them. A silent fight has been engaged in between the Parliament and the Council/European Council for the control of the Commission, which is also a struggle between supranational and intergovernmental methods. Two different ideas about the role of the Commission are evident: the latter can be conceived as an independent and strong proactive institution or, on the contrary, as a sort of Super-secretary of the European Governments.

The redistribution of powers operated by the Lisbon Treaty seems to confirm that the Commission is destined to play a more technical role than a political leadership role. It is clear then that the whole institutional balance will depend on the capacity of the European Parliament to pull the Commission onto the supranational side.

On February 9th 2010, the European Parliament approved a Resolution concerning the Framework Agreement on relations between the Parliament and the Commission whose aim is to establish a “special partnership” between the two institutions.

Such a partnership rather configures a subordination of the Commission to parliamentary control. According to the resolution, the President of the Commission will have regular dialogue with the President of the European Parliament on key horizontal issues and major legislative proposals. This dialogue should also include invitations to the President of the Parliament to attend meetings of the College of Commissioners. As far as the proposals of EU acts, the Commission should explain when it cannot deliver individual proposals foreseen in the annual program or when it departs from it. Regarding the action of single Commissioners, if Parliament asks the President of the Commission to withdraw confidence in an individual Member of the Commission, the President shall either require the resignation of that Member or explain his refusal to do so before Parliament in the following part-session. In order to ensure better monitoring of the transposition of Union law, the Commission should make available to Parliament information about all the infringement procedures.

Most innovative are the provisions related to the EU external action. Using its leverage on the Commission, the European Parliament aims to acquire an increasing influence on the international agreements concluded by the EU. The Commission shall give immediate and full information to Parliament at every stage of negotiations on international agreements (including the definition of the negotiation directives). The resolutions require the Commission to support Parliament in the negotiations on EEAS; the Commission will also support Parliament with a view to continuing and reinforcing the “Community approach” in development policy, which should remain within the competence of the Commission. At international conferences, the Commission, should, at Parliament’s request, facilitate the granting of observer status to the Chair of Parliament’s delegation in relevant meetings.

The draft Agreement already negotiated between the EP and the Commission seems to very much trouble the Council, according to which it tries to modify the institutional balance between the institutions by giving prerogatives to the European Parliament which are not provided for in the Treaties. Furthermore, it tries to affect the autonomy of decision of the Commission. The two

issues which the most worrying for the Council are international negotiations and infringement procedures.

At the end of its mandate the Spanish presidency asked the Conference of Community and European Affairs Committees of Parliaments of the European Union to take a position against the above said draft agreement. COSAC replied that “the independence of the European Commission should not be questioned and that the acts of the Council assume a particular significance for national Parliaments which exercise control of this body through their respective Governments. COSAC expects that respective prerogatives of all EU institutions be maintained, as defined in the Treaties, which entails no change in the status of the Council, thereby upholding the ability of national Parliaments and the European Parliament to influence European policy.”

The EP and Commission negotiators tried recently to calm down the Council worries (see: <http://register.consilium.europa.eu/pdf/en/10/st12/st12717.en10.pdf>) but it is at least worrying that in the fight for the control of the Commission the Council tries to join forces with the national parliaments against the European Parliament. This inter-institutional agreement may be a turning point in the EU institutional relations.

Acknowledging the need of granting political accountability the High Representative recently referred to such Agreement with regards to the Decision which establishes the European Service on External Action (<http://register.consilium.europa.eu/pdf/en/10/st12/st12401-ad01.en10.pdf>) accepting most of the issues raised by the European Parliament.

5. “Agentification”

A further symptom of the progressive weakening of the Commission is the multiplication of Agencies (currently more than 30 financed by the EU budget) who have been given competences previously managed by the Commission. The Lisbon Treaty, in article 15 of the TEU, prescribes that “the Union’s institutions, bodies, offices and agencies shall conduct their work as openly as possible”. Nevertheless, the practice shows that, above all in the Freedom Security and Justice Area, where many agencies are charged with delicate tasks , the level of openness deemed possible is quite low. The problem is even more serious since article 41 of the Charter of Fundamental Rights expressly recognises the right to a good administration and article 42 enshrines the right of access to a document and the EU has now a specific legal basis to adopt regulations which could frame "an open, efficient and independent European administration" (art. 298 TFUE) .

Moreover, is not very clear as to who should control the Agencies when acting in or outside the EU. The competence of the Court of Justice has been explicitly extended by the Treaty of Lisbon to the acts setting up bodies, offices and agencies of the Union which may lay down specific conditions and arrangements concerning actions brought by natural or legal persons. But the remedies of the legality review, failure to act, and preliminary rulings on validity can only assure an ex post control. The same can be said for the powers of the European Ombudsman enshrined by article 43.

A more stringent control on the agencies could be performed by the European Parliament who should decide how to implement it when it act as legislator (when it adopt or modify the legal basis

setting the Agencies by also fulfilling the specific provisions which associate also the national Parliaments oversight for Eurojust -art. 85 TFUE - and Europol -art. 88 TFUE) and as Budgetary authority (by so been inspired by the practices of the US Congress). The above mentioned European Parliament Resolution on a Framework Agreement requires that the nominees for the post of Executive Director of regulatory agencies should come to parliamentary committee hearings.

6. Supranationality; The wider Powers of the European Parliament

Originally born as a non-directly elected and almost powerless Assembly, the European Parliament is the institution which has undergone the most remarkable evolution over the years since the '79 elections and notably following the Treaty amendments adopted since the Single European Act in '86. The Lisbon Treaty strengthens all the powers of the European Parliament which is probably the real gainer in the last revision round.

Legislative powers. Revision after revision, the European Parliament has almost fully attained the status of co-legislator. With the Lisbon Treaty the codecision procedure is extended to nearly new 50 areas including common agricultural policy, structural funds, free movement of workers and of services and many aspects of the Freedom Security and Justice Area.

Even more interestingly, the consent procedure (previously called assent) now applies to many important fields: serious breach of Fundamental Values (art. 7 TEU), rules on the compositions of the European Parliament (art. 14 TEU), appointment of the Commissioners (Art. 17 TEU) and of the whole Commission, revision of the founding treaties (art. 48 TEU), accession new States (art. 49 TEU), withdrawal (art. 50 TEU), measures preventing discrimination (art. 19 TF), extension of the rights of citizenship (Art. 25 TF), certain aspects of criminal law (art. 82,83 TF), Eurojust and Public Prosecutor (art. 86 TF), uniform electoral procedure (art. 223 TF), financial resources (art. 311 TF), Multiannual Financial Framework (art. 329 TF) enhanced cooperation, flexibility clause (art. 352 TF). Finally but not less importantly, the Parliament consent is required for many international agreements "covering fields to which either the ordinary legislative procedure (NDR "codecision") applies or the special legislative procedure where consent by the European Parliament is required" (art. 218 TF par. 6 al (a) point v).

Moreover, although the European Parliament is still lacking of a real right of initiative, the Lisbon Treaty oblige now the Commission to state the reasons if it does not intend to follow a Parliament request to submit a legislative proposal (art 225 TF).

Finally, as far as the non legislative acts are concerned, while the Executive function is mainly attributed to Member States (art 291 TF) and therefore submitted to Comitology, the control on the acts delegated to the Commission (art. 290 TF) will be jointly made by the Council and the Parliament on equal footing.

New Role in International Agreements. In the cases of PNR, SWIFT, and the Anti Counterfeiting Trade Agreement (ACTA), the European Parliament showed its determination in influencing negotiations of international agreements by so opening the way for a rather new form of Parliamentary "diplomacy". In fact the Parliament is more and more using his power of consent not as an *ex post* control (which would be difficult to use once the negotiation is accomplished) but as an *ex-ante* control on the Commission when acting as international negotiator. By addressing the

political questions from the very beginning, and by threatening not to give the consent required by Art.218 TF, the European Parliament is gaining an authoritative role so that it is often required to meet the delegations of the contracting third states. Has highlighted above the consent of the European Parliament is since Lisbon required in many cases: association agreements, accession to the European Convention on Human Rights, when the agreement has important budgetary implications, when they establish an institutional framework, when codecision is required on the internal side.

More Budgetary Powers. The Lisbon treaty extends the final say of the Parliament to all the Ordinary and Straordinary Expenditures and gives it a veto power by applying the consent procedure to the approval of the Multiannual Financial Framework. From the beginning of European integration, the European Parliament exploited its budgetary power as leverage for incrementing its prerogatives and conquering political weight. Such power will be most likely be used in the near future in order to politically influence external action of the European Union, including the CFSP and the new External Action Service. As regards the latter, it is not coincidence that the High Representative recently proposed a specific funding mechanism enabling an escape from too strict a control by the Parliament.

Control on other Institutions. The Lisbon Treaty introduces new hearings which should make it easier for the European Parliament to assess the action of the other institutions: the European Council and the Council shall be heard by the European Parliament (Art 230 TFEU); the President of the European Parliament may be invited to be heard by the European Council; a question time before the Parliament is envisaged for the High Representative. Moreover, the Parliament is involved, even if indirectly, in appointing the ECJ by choosing one of the members of the advisory panel which is called to give an opinion on the choice of the European judges.

What is becoming more and more apparent is a new relationship between the European Parliament and the Commission. At the beginning of European integration, the Commission was a type of “tutor” for the Parliament, supporting the latter in its struggle for achieving more powers. Such a relationship has been upturned as the Commission has become the first to be subjected to the strict control of the European Parliament. After the collective resignation of the Dehane Commission, the European Parliament forced some Member States to withdraw their candidate for the Commission (see the cases of Buttiglione under Barroso I and Jeleva under Barroso II). More generally, the Parliament has assumed an increasingly critical attitude towards the Commission, frequently expressing its disappointment for the lack of ambitions of the latter.

A new Alliance with the national Parliaments? The control on subsidiarity and proportionality as well as the “emergency brake” procedures suggest the opportunity of better coordination between the European Parliament and the national ones. In order to avoid a coalition between the Council and the easier to manage COSAC, the EP should establish and cultivate a direct link with national parliaments. Such a link can be useful also for the latter, in the light of a better control on the national government.

7. The Court of Justice as a Constitutional Judge

At the very core of the supranational method stands the European Court of Justice (ECJ). The Court primarily essential for ensuring the Rule of Law in the European Union, overseeing the legality of European acts and the uniform application and interpretative coherence of the same. The instrument of preliminary rulings allows the Court to use the national judicial systems for monitoring the compliance of the Member States.

The Court was conceived by the founding treaties as an independent judge aimed to protect and enforce the rule of law in the European Union. But the Court is also part of the system and it can exist because the latter exists: this is the reason why the Court always maintains a pro-integration, which often means supranational, approach.

Secondly, over the years, the Court developed a corpus of fundamental principles of EU Law which progressively detached the EU legal system both from the international and the national ones, building what the Court itself defined as a new kind of legal order (*Van Gend*). This has been apparent in the case law concerning the supremacy and the direct effects of EU law, in which the Court affirmed the doctrine of a hierarchical superiority of the European Law over the national ones.

Thirdly, the Court interpreted the competences of the European Union in order to expand them both on an internal and external level. The Treaty of Lisbon endorses the broad definition of the EU external competences as expressed by the Court of Justice in its *Lugano* Opinion. The Court has recently stressed the pre-emptive effect of EU action regarding the international competences of the Member States (*Commission vs. Sweden*).

The Lisbon Treaty widens the competence of the ECJ to the entire 'Area of Freedom Security and Justice' and to the individual sanctions applied in the field of the Common Foreign and Security Policy. Apart from the latter, the ECJ's competence still does not apply to the Common Foreign Security and Defense Policies. But, with the EU accession to the ECHR those sectors will be submitted to the control of the Strasbourg Court.

The full entry into force of the Charter of Fundamental rights as well as the EU accession to the European Convention on Human Rights, both provided for by the Lisbon Treaty, are likely to have an effect on the Court of Justice. Since the proclamation of the Charter in 2000 the ECJ started to interpret fundamental rights more broadly, becoming a supporter of individual rights and not only a defender of the EU law. After the accession, the dynamics between the Luxembourg Court and Strasbourg Court are still to be defined and represent a further challenge in the light of the constitutionalisation of the EU system.

The analysis of the ECJ case law shows a development of its role from an administrative to a Constitutional judge. A further evolution of the Court in this sense can be expected in the next years and will add more supranationality to the whole system. This is due to the delicate position of the Court which will increasingly face the Court of Strasbourg from one side and the national Constitutional Court from the other.

8. Is the EU system more supranational or more inter-governmental? The challenge of the new inter-institutional balance

It is quite clear that the Treaty of Lisbon modifies the traditional inter-institutional balance of powers. The European Council and the European Parliament gain weight, while the Council tends to fade and the Commission is weakened. Nevertheless, this is not a zero sum game: all considered, the intergovernmental front seems to be reinforced in comparison with the supranational one. In fact the Commission, which was the traditional core of the Community/supranational method, often resembles a super-secretary of the Council or a research department. A more intergovernmental system entails the risks of a poor leadership, a weak control on the common rules and a scarce consideration of the EU general interest, the latter being something different from a compromise among the many different national interests.

In the light of such a risk many different proposals have been advanced in order to re-balance the system. Some think tanks seem to consider that the best solution would be merging the roles of the Presidents of the Commission and of the European Council. It is argued that such a solution would accentuate the intergovernmental character of the Commission, further reducing the autonomy of the latter.

A more effective idea has been advanced by Federalist movements which campaign for a Commission's President jointly elected with the European Parliament. An even more radical solution was mentioned by the German Constitutional Court in its *Lisbon Urteil*, i.e. the direct election of the President of the Commission. Such a solution would entail two positive effects: on one hand the President of the Commission, and the Commission itself, would acquire more visibility in front of the citizens and from the other side its political legitimacy would be increased. Unfortunately such modifications would require an amendment of the founding treaties, which is in the hands of national governments and parliaments, unlikely willing to accept such modifications.

If the drift of the Commission towards the intergovernmental side is difficult to hold back only a proactive role of the European Parliament can re-balance the whole system in the supranational direction.

By means of the many revisions of the original treaties the European Parliament gained an even more important role. What was once the so called "democratic deficit" has been progressively filled. But the European Parliament still suffers – as the whole European Union does - of a political deficit. The European Parliament needs to share not only the legislative role (with Council) but also the political impetus and the setting of priorities (with the European Council). At this stage of the European integration the European Parliament does not need more powers; it needs to develop a vision of Europe which also offers to the EU citizens the ground for a European identity.

What is suggested is a political re-balancing of the institutional system which requires no modification of the existing Treaty. It should be based on the permanent and constructive dialogue between an assertive Parliament and the new President of the European Council. Such a dynamic would be the better way of exploiting the innovations provided for by the Lisbon Treaty for ensuring a new balance between supranationality and intergovernmental method.

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