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The Lisbon Treaty

A Legal and Political Analysis

Jean-Claude Piris

with a Foreword by Angela Merkel

THE LISBON TREATY

A Legal and Political Analysis

JEAN-CLAUDE PIRIS



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THE LISBON TREATY

Given the controversies and difficulties which preceded the coming into force of the Lisbon Treaty, it is easy to forget that the Treaty is a complex legal document in need of detailed analysis for its impact to be fully understood. Jean-Claude Piris, the Director-General of the Legal Service of the Council of the European Union (EU), provides such an analysis, looking at the historical and political contexts of the Treaty, its impact on the democratic framework of the EU and its provisions in relation to substantive law. Impartial legal analysis of the EU's functions, its powers and the treaties which govern it make this the seminal text on the most significant recent development in EU law.

SINCE 1988, JEAN-CLAUDE PIRIS has served as the Legal Counsel of the Council of the EU and Director-General of its Legal Service. He is an Honorary Counsellor of State of France, a former diplomat at the UN and the former Director of Legal Affairs of the OECD. He was the Legal Advisor of the successive Intergovernmental Conferences which negotiated and adopted the treaties of Maastricht in 1992, Amsterdam in 1997 and Nice in 2001, the Constitutional Treaty signed in Rome in 2004 and, finally, the Lisbon Treaty in 2007.

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Jean-Claude Piris

To Margrét Thoroddsdottir-Piris and Anne-Sophie Sunna
Piris, my wife and daughter, for their constant support and
patience during the time of writing this book.

I do absolutely believe in the European project.
I think it is the most noble political ideal
in European history in a thousand years.*

* Peter Sutherland, chairman of British Petroleum, chairman of Goldman Sachs International, chairman of London School of Economics, former EU Commissioner and former Director-General of the World Trade Organization. Interview by Harry Eyres, *Financial Times*, 3–4 January 2009.

BOXES

1	The successive enlargements of the EU	3
2	Protocol on the institutions with the prospect of enlargement of the European Union (Amsterdam 1997)	10
3	The four questions put by the Declaration on the Future of the Union (Nice 2000)	11
4	Declaration on the Future of the European Union (Laeken, December 2001)	12
5	Turnout for the elections to the European Parliament	14
6	Declaration on the ratification of the Treaty establishing a Constitution for Europe, European Council, 15–16 June 2005	24
7	European Council, 15–16 June 2006, Presidency Conclusions	25
8	Berlin Declaration, 25 March 2007	29
9	European Council, 19–20 June 2008, Presidency Conclusions	52
10	European Council, 11–12 December 2008, Presidency Conclusions	54
11	Statement of the Concerns of the Irish People on the Lisbon Treaty as set out by the Taoiseach, 11–12 December 2008	55
12	European Council, 18–19 June 2009, Presidency Conclusions	57
13	Decision of the Heads of State or Government of the 27 Member States of the EU, meeting within the European Council, on the concerns of the Irish people on the Lisbon Treaty, 18–19 June 2009	58
14	European Council, 29–30 October 2009, Presidency Conclusions	62
15	The Union's values (Article 2 TEU)	71
16	The objectives of the EU (Article 3 TEU)	72
17	The division of competences between the EU and its Member States	75
18	Declaration no. 17 concerning primacy	81
19	The 'comitology' system before the Lisbon Treaty	101
20	The Declaration on the Future of the European Union (Laeken, December 2001)	113
21	Article 10 TEU	114
22	Article 12 TEU	126
23	Europol and Eurojust	182
24	The 'brake–accelerator' mechanism	185
25	The 'accelerator' mechanism	187

26	The rotation of Council Presidencies from 2007 to 2020	210
27	Article 16 TEU (definition of QMV within the Council) and Article 235(1), 2nd subparagraph, TFEU (definition of QMV within the European Council)	214
28	Evolution of the weight of Council members' votes since 1957	218
29	The 'Ioannina Decision' of 1994	223
30	The 2009 'Ioannina-bis' mechanism	224
31	ESDP operations and missions of the EU (2003–9)	269
32	Payment appropriations as a percentage of GNI, 2000–13	290
33	The UK rebate	290
34	EU expenditure 2007–13	291
35	Interinstitutional Agreement, Financial Framework 2007–13	293
36	A particular example of the extensive use by the European Parliament of its budgetary powers	300
37	Protocol no. 27 on the internal market and competition	308
38	Protocol no. 26 on services of general interest	315
39	Article 194(1) TFEU on energy	319

FOREWORD

Mit dem Vertrag von Lissabon wurde ein neues Kapitel der europäischen Geschichte aufgeschlagen. Einen entscheidenden Impuls für diesen neuen Vertrag gaben die Feierlichkeiten zum 50. Jahrestag der Unterzeichnung der Römischen Verträge am 25. März 2007. Denn hier bekannten sich die europäischen Staats- und Regierungschefs in der “Berliner Erklärung” zu den gemeinsamen Werten, Aufgaben und Strukturen der Europäischen Union – und dazu, die Europäische Union auf eine erneuerte gemeinsame Grundlage zu stellen.

Diesen Willen in ein Mandat für eine Regierungskonferenz umzusetzen, war sicherlich nicht einfach. Dass dieses Ziel schließlich noch während der deutschen Ratspräsidentschaft auf dem Europäischen Rat vom 21. bis 23. Juni 2007 erreicht wurde, ist auch ein Verdienst von Jean-Claude Piris als Generaldirektor des Juristischen Dienstes des Rates. Die Mühen haben sich gelohnt. Denn der Vertrag von Lissabon macht die Europäische Union nach außen stärker und selbständiger und nach innen demokratischer. Die Union ist damit für die neuen Herausforderungen der zunehmend globalisierten Welt besser gerüstet.

Mit Inkrafttreten des Vertrags von Lissabon am 1. Dezember 2009 wurde ein vielschichtiger Reformzyklus erfolgreich abgeschlossen, der bereits mit den Verhandlungen zum Vertrag von Maastricht begann. Das vorliegende Buch zeichnet die historischen Linien nach. Dadurch werden die Wurzeln und Bezüge der zentralen Regelungen klar herausgearbeitet. Daneben stellt das Werk auch die wichtigsten Urteile zum Vertrag von Lissabon dar – beispielsweise das Urteil des deutschen Bundesverfassungsgerichts. Das Buch leistet somit eine umfassende Einordnung des geltenden Primärrechts der Europäischen Union aus einer berufenen Hand.

*Angela Merkel
Bundeskanzlerin
Bundesrepublik Deutschland*

The Lisbon Treaty opened a new chapter in European history. The celebrations on 25 March 2007 to mark the fiftieth anniversary of the signing of the Treaties of Rome were a significant driver of this new Treaty, for it was on this occasion that the European heads of state or government, in signing the Berlin Declaration, committed themselves not only to a set of shared values, tasks and structures within the European Union but also to placing the European Union on a renewed common basis.

Converting this commitment into a mandate for an Intergovernmental Conference was by no means easy. The fact that this goal was indeed accomplished at the European Council meeting held on 21–23 June 2007 – and still within the period of the German EU Council Presidency – was thanks in no small part to Jean-Claude Piris in his role as Director-General of the Council Legal Service. It was worth the effort. For the Lisbon Treaty makes the European Union stronger and more independent in foreign policy but internally more democratic, which means it is better equipped to face the new challenges of an increasingly globalised world.

With the entry into force of the Lisbon Treaty on 1 December 2009, a complex cycle of reform that had in fact begun with the negotiations for the Maastricht Treaty was successfully completed. This book traces the outline of the historical process and in so doing clearly elucidates the roots of the core provisions and also the relationships between them. At the same time the work illuminates the most significant judgments relating to the Lisbon Treaty – for instance the judgment by the German Federal Constitutional Court. The book achieves in effect a comprehensive assessment of existing primary law in the European Union, written by an authoritative hand.

Angela Merkel
Chancellor
Federal Republic of Germany
(Berlin, November 2009)

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TABLE OF CASES

Court of Justice of the European Union

- Case 6/641, *Costa v. ENEL*, Judgment of 15 July 1964, [1964] ECR 585 22 n. 24, 79, 82, 144
- Cases 90/63 and 91/63, *Commission v. Luxembourg and Belgium*, Judgment of 13 November 1964, [1964] ECR 625 22 n. 24
- Case 29/69, *Stauder*, Judgment of 12 November 1969, [1969] ECR 419 146 n. 1, 159 n. 31
- Case 11/70, *International Handelsgesellschaft*, Judgment of 17 December 1970, [1970] ECR 1125 79 n. 14, 146 n. 1, 348 n. 9
- Case 22/70, *AETR*, Judgment of 31 March 1971, [1971] ECR 263 238 n. 1
- Case 39/72, *Commission v. Italy* (premiums for slaughtering cows), Judgment of 7 February 1973, [1973] ECR 101 86 n. 24
- Case 36/74, *Walrave*, Judgment of 12 December 1974, [1974] ECR 1405 322 n. 61
- Case 41/76, *Donckerwolcke*, Judgment of 15 December 1976, [1976] ECR 1921 74 n. 13
- Case 106/77, *Simmenthal*, Judgment of 9 March 1978, [1978] ECR 629 79 n. 14, 80
- Case 128/78, *Commission v. UK* (tachographs), Judgment of 7 February 1979, [1979] ECR 419 86 n. 24
- Case 231/78, *Commission v. UK* (potatoes), Judgment of 29 March 1979, [1979] ECR 447 86 n. 24
- Case 804/79, *Commission v. UK*, Judgment of 5 May 1981, [1981] ECR 1045 74 n. 13
- Case 294/83, *Les Verts v. Parliament*, Judgment of 23 April 1986, [1986] ECR 1339 22 n. 25, 152 n. 17
- Case C-159/90, *SPUC v. Grogan*, Judgment of 4 October 1991, [1991] ECR I-4685 156 n. 26
- Opinion 1/91 of 14 December 1991, *EEA Agreement*, [1991] ECR 6079 22 nn. 25–6
- Opinion 2/91 of 19 March 1993, *ILO*, [1993] ECR I-1061 74 n. 12
- Case C-2/92, *Bostock*, Judgment of 24 March 1994, [1994] ECR I-955 159 n. 29
- Case 65/93, *European Parliament v. Council*, Judgment of 30 March 1995, [1995] ECR I-643 85 n. 21
- Case C-415/93, *Bosman*, Judgment of 15 December 1995, [1995] ECR, I-4921 322 n. 61

- Case C-25/94, *Commission v. Council (FAO fishery agreement)*, Judgment of 19 March 1996, [1996] ECR, I-01469 294 n. 7
- Opinion 2/94 of 28 March 1996, *Accession of the EC to the ECHR*, [1996] ECR I-1759 146 n. 2, 159 n. 32, 164 n. 38
- Case C-285/98, *Kreil*, Judgment of 11 January 2000, [2000] ECR I-69 348 n. 9
- Case C-107/97, Judgment of 18 March 2000, *Rombi and Arkopharma*, [2000] ECR I-3367 159 n. 29
- Case 50/00 P, *Union de Pequeños agricultores*, Judgment of 25 July 2002, [2002] ECR I-6677 231–2 n. 29
- Case C-11/00, *Commission v. ECB (OLAF Regulation)*, Judgment of 10 July 2003, [2003] ECR I-7147 235 n. 36
- Case C-378/00, *Commission v. Council (LIFE)*, Judgment of 21 January 2003, [2003] ECR I-937 102
- Case C-105/03, *Pupino*, Judgment of 16 June 2005, [2005] ECR I-5285 92 n. 33, 175–6 n. 28, 200 n. 73
- Case C-176/03, *Commission v. Council*, Judgment of 13 September 2005, [2005] ECR I-7879 183 n. 45
- Cases C-77/05 and 137/05, *UK v. Council*, Judgments of 18 December 2007, [2007] ECR I-11459 and I-11593 197 n. 68, 199 n. 72
- Case C-91/05, *Commission v. Council (small arms-ECOWAS)*, Judgment of 20 May 2008, [2008] ECR I-3651 68, 231 n. 27, 280 n. 58
- Case C-341/05, *Laval*, Judgment of 18 December 2007, [2007] ECR I-11767 158 n. 28, 334
- Joined Cases C-402/05 P and C-415/05 P, *Kadi v. Council and Commission*, Judgment of 3 September 2008, [2008] ECR I-6351 347
- Case C-438/05, *Viking Line*, [2007] Judgment of 11 December 2007, ECR I-10779 158 n. 28, 334
- Case C-440/05, *Commission v. Council*, Judgment of 23 October 2007, [2007] ECR I-9097 183–94 n. 45
- Case C-13/07, *Commission v. Council (accession of Vietnam to the WTO)*, Conclusions of Advocate General Juliane Kokott, 26 March 2009 [not yet published] 239 n. 2
- Case C-127/08, *Metock*, Judgment of 25 July 2008, [2008] ECR I-6241 333 n. 13

Other international courts

European Court of Human Rights (ECHR) and European Human Rights Commission

- Decision of 13 May 1980 of the European Human Rights Commission, Case X v. UK, no. 8416/79, DR 19, 244 155 n. 24
- Judgment of 7 July 1989 of the ECHR, Case 1/1989/161/217, *Soering v. United Kingdom* 153 n. 22

- Judgment of 17 December 1996 of the ECHR, Case 71/1995/577/663, *Ahmed v. Austria* 153 n. 22
- Judgment of 18 February 1999 of the ECHR, Case 24833/94, *Matthews v. UK* 166 n. 41
- Judgment of 29 June 2004 of the ECHR, Case 44774/98, *Leyla Sahin v. Turkey* 156
- Judgment of 30 June 2005 of the ECHR, Case 45036/98, *Bosphorus Hava Yollari Turizm v. Ireland* 146 n. 2, 147 n. 7, 165 n. 39

International Court of Justice

- Advisory Opinion of 11 April 1949, *Reparation for injuries suffered in the service of the United Nations* ('Bernadotte Case'), [1949] ICJ Rep. 174 87 n. 26

National Constitutional Courts

Czech Republic

- Judgment of 8 March 2006, *Sugar quotas*, Pl. US 50/04 360 n. 3
- Judgment of 3 May 2006, *Arrest-warrant*, Pl. US 66/04 360 n. 3
- Judgment of 26 November 2008, *Treaty of Lisbon (I)*, Pl. US 19/08 359–60
- Judgment of 3 November 2009, *Treaty of Lisbon (II)*, Pl. US 29/09 114 n. 3, 359 n. 1

France

- Decision of 19 November 2004, *Traité établissant une Constitution pour l'Europe*, no. 2004–505 DC 81 n. 18
- Decision of 20 December 2007, *Traité de Lisbonne*, no. 2007–560 DC 49 n. 80, 128 n. 29

Germany, Federal Republic of

- Judgment of 29 May 1974, *Solange I*, BVerfGE 37, 271 115 n. 4, 144, 146, 164
- Judgment of 22 October 1986, *Solange II*, BVerfGE 73, 339 147
- Judgment of 18 December 1993, *Treaty of Maastricht*, BVerfGE 89, 155
- Judgment of 7 June 2000, *Bananenmarktordnung*, BVerfGE 102, 147 147 n. 5
- Judgment of 30 June 2009, *Treaty of Lisbon*, Joint Cases 2 BvE 2/08, 2 BvE 5/08, 2 BvR 1010/08, 2 BvR 1022/08, 2 BvR 1259/08 and 2 BvR 182/09 83 n. 20, 86 n. 23, 107 n. 57, 111 n. 62, 112 n. 1, 114 n. 3, 116 n. 8, 121 n. 17, 122 n. 18, 128 n. 26, 130 n. 35, 132 nn. 38–9, 134 n. 40, 139 n. 50, 140 nn. 53–4, 141–5, 152 n. 19, 180 n. 37, 181 n. 41, 183 n. 42, 184 n. 46, 186 n. 48, 217 n. 14, 233 n. 33, 236 n. 38, 309 n. 28, 313 n. 42, 335 n. 16, 341–58

Ireland

Judgment of 9 April 1987, *Crotty v. Taoiseach*, 1986 No. 12036P 51

Italy

Judgment of 27 December 1973, *Frontini*, no. 183/73, I, 1974, 314 147 n. 6

Judgment of 21 April 1989, *Fragd*, no. 232/89, I, 1990, 1855 147 n. 6

Spain

Decision of 13 December 2004, *Traité établissant une Constitution pour l'Europe*, no.
DTC 1/2004 81 n. 18