

The Powers and Competences of the European Parliament under the Treaty of Lisbon

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JORIS JOURDAIN, SEP 20 2015

Critically Assess the Powers and Competences of the European Parliament under the Treaty of Lisbon

The European Parliament's (EP) competences have significantly increased over time. Specifically, with the Lisbon Treaty, a consequential extension of the EP's power has been observed (Corbett et al. 2011). The new powers bestowed upon the EP have been greatly criticized as they are deemed to be ineffective by many scholars. However, although these criticisms are justified to a certain extent, it is also often held that increasing the powers of the EP was necessary as it was the best way of addressing the "democratic deficit" in the European Union (EU) (Follesdahl and Hix 2006). The EU appeared inaccessible to most citizens; hence, increasing the powers of the directly elected assembly seemed necessary to remediate to this issue (Follesdahl and Hix 2006).

Nonetheless, throughout this essay, I shall argue that although the EP's powers have considerably increased since 2007, the Lisbon Treaty's aim to eradicate the democratic deficit in the European Union has not been met. Hence, the Lisbon Treaty did not solve the structural issues such as the low turnout to its elections or the fact that the debates in EU institutions are mainly national and not supranational. I shall focus my analysis on the EP's extension of powers in term of legislation, budget and appointment.

The Lisbon Treaty considerably increased the EP's legislative powers, notably thanks to the adoption of the Ordinary Legislative Procedure (OLP). With the Treaty of Lisbon, the co-decision method has been replaced by the OLP. In this system, the Commission formulates a proposal and addresses it to the EP first, which can adopt, reject or amend the proposition (Ruiter 2013). Then, the EP's opinion is transmitted to the Council that can reject/accept or put forward its own modifications. If the proposal is not adopted by both institutions, the procedure is repeated twice. In case the proposal is still not accepted, a conciliation meeting is organised and representatives from the three institutions meet up and negotiate (Franchino and Mariotto 2013). After this meeting, if either the EP or the Council disagree with the text, the project is not adopted. Therefore, thanks to the adoption of the OLP, the EP and the Council are co-legislators when it comes to adopting proposal, which was not the case before the Lisbon Treaty (Corbett 2011).

In the perspective of increasing the EU's democratic legitimacy, the choice of extending the EP's powers through the adoption of the OLP seems to be justified. Indeed, by adopting the OLP, the power of the Members of the European Parliament (MEPs) is extended and, hence, the same goes for the EU citizens (Dobbels 2013). Indeed, because MEPs are directly elected, they can be held accountable for the legislation they accept/reject and for the decisions they make (Schmidt 2013). Another major argument put forward by the partisans of the OLP is that this procedure would be an efficacious way for recognizing neglected public interests and would reflect "a more diverse range of citizens concerns" (Burns et al. 2013: 953).

However, although the EP's powers have greatly increased through the adoption of the OLP, the procedure does not apply to all areas and all its stages are not always respected; suggesting that the "democratic deficit" is not fully addressed. Indeed, a major limitation to the OLP is that it is not applied when it comes to social security and taxes

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(Kohler 2014). In addition, in the areas where the OLP is used, steps of the procedure are sometimes skipped, as going through the whole process is considered too long and laborious. The council and the Parliament often start negotiating during meetings called trilogues as soon as the process is engaged (Rasmussen and Reh, 2013). This procedure is often employed; between 2007 and 2012, 76% of proposals were negotiated through a trilogue (Kardasheva, 2012). Moreover, although it is held that trilogues increase the EP's power as in most of the cases when representatives informally meet up prior to the formal decision, the EP manages to impose its views on the other institution (Roederer-Rynning and Greenwood, 2015), they are actually a major issue in the perspective of addressing a wider "range of citizens concerns" (Burns et al. 2013: 953). Indeed, because trilogues are not public, EU citizens cannot hold MEPs accountable for their actions (Kardasheva 2012). Further than the accountability issue, trilogues are problematic because they are not democratic. Only MEPs that represent the largest parties (Kohler 2014) go to trilogues, and therefore they are those who systematically benefit from the trilogue negotiations (Holzhacker 2007). Therefore, the fact that smaller parties do not participate in these meetings undermines the OLP's ambition to put an end to the democratic deficit and threatens the reputation of the EP as the "most legitimate EU institution" (Holzhacker 2007: 263).

The powers of the EP were also increased in term of budgetary competences, specifically when compared to other institutions. The new process for the adoption of the EU's budget says a lot about the EP's increase in powers. The Commission drafts each year's budget and forwards it to the Council, which can either adopt or reject it. The Council's opinion is then sent to the Parliament, which gives its own opinion (Neheider 2011). In case of a disagreement between the two institutions, a conciliation meeting is organised; nonetheless, in case of a persisting disagreement, the European Parliament "has the right to ultimately approve the budget" (European Commission, 2015). In addition, the difference between compulsory and non-compulsory expenditures has been revoked by the Lisbon Treaty. Before 2007, the compulsory expenditures could not be challenged and therefore EP could not freeze the budget if it believed it had not performed well (Corbett et al. 2011). Therefore, partisans of this reform held that this increase in the Parliament's competences gives the EU more legitimacy as it indirectly increases the EU citizens' powers.

Nonetheless, although the EP's budgetary powers were greatly increased with the Lisbon Treaty; they are still limited compared to the Council's when one considers the "provisional twelfths mechanisms" (Benedetto, 2011: 124). This system states in case of a rejection of the annual budget, "a sum equivalent to not more than one twelfth of the budget appropriation for the preceding financial year" may be spent each month (Benedetto, 2011: 124). In such a case, the legislation has changed with Lisbon. Under the old treaty, the EP was able to overrule the Council by a three-fifths majority and to ask for the budget to be increased (for the non-compulsory expenditures). With the Lisbon Treaty, overruling the Council is more difficult as the EP is only allowed to block increases and ask for decreases, this power is, however, extended to all areas of expenditures (Benedetto 2013). In addition, the trilogues are also used in the negotiations about the budget between the Council and the EP. As I mentioned above, this way of proceeding is problematic as trilogues are neither transparent nor democratic. Hence, although the EP's budgetary powers have been extended with Lisbon, they still have several limitations. These limitations are an issue as they mean that EU citizens who contribute to the budget with their taxes are not well represented by the MEPs they elected.

The appointment powers of the EP were also strengthened with the Treaty of Lisbon, specifically with regards to the appointment of the Commission's President. With the Lisbon Treaty, the process of electing the President of the Commission has been amended. The Council now takes into account the elections in the Parliament and then submit to the EP a potential successor to the President of the Commission (Margaritis 2014). This institutional change paved the way to the creation the *spitzenkandidaten* system for the 2014 European elections ("lead candidate system"). The idea behind this system is that a vote in these elections would also be a vote for the President the Commission – the chief of the EU's executive (Hobolt 2014). Therefore, five of the seven European parties nominated a *spitzenkandidat* that they wanted to see at the head of the Commission (Hobolt 2014). The European's People Party won the 2014 elections with almost 30 per cent of the votes. Hence, this party's *spitzenkandidat*, Jean Claude Juncker has been nominated to the head of the Commission and as the EP supported him, he was elected (Hobolt 2014).

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This system was originally adopted in order to initiate a transition and to address the citizens' lack of European interest. The aim of this development towards personalization was to give the citizens an incentive to vote and, hence, to increase the "mobilization potential" and the individual predisposition to show up at the elections (Schmitt et al. 2014: 45). The partisans of the *spitzenkandidaten* system also put forward the following argument; this system is more likely to attract voters because they would already be familiar with it (Corbett 2014: 1196). In many European nations, the head of the country nominates the prime minister in order to secure Parliamentary majority (Corbett 2014: 1196). Hence the argument goes that by making the national and European system more similar, voters would have a better understanding of the European elections and voters' participation would be better. However, although this reasoning is true to some extent, it does not take into account the fact that national contexts vary greatly from one country to another; suggesting that many citizens may not be familiar with it (Corbett 2014).

There are several other drawbacks to this system. Although the Lisbon Treaty and the *spitzenkandidaten* system aimed to make the EU more democratic, several problems regarding this issue remain unresolved. With regards to the 2014 elections, it is clear that with or without *spitzenkandidat*, EU citizens are not interested in European issues. The statistics describing the turnouts at the last European elections demonstrate that there was no specific enthusiasm for the 2014 European Elections (Roederer-Rynning and Greenwood 2015). In addition, the European political identity remains weak. Indeed, the "European" parties are coalitions entirely dependent on national parties (Thomassen, 2009). Hence, the European Union issues are approached with a national way of thinking (Margaritis 2014). As a result, the European voters frequently express through their votes a protest against their national government instead of expressing their views on the EU (Hix and Marsh 2007). Consequently, it is clear that the efforts to make the nomination of the Commission President has not had a discernible impact on the perceived democratic deficit as theorised by Follesdahl and Hix (2006). Nevertheless, a possible alternative could be that government leaders allow a more open battle for the office of the Commission President or even to establish a direct election, either by the citizens or the national parliaments (Follesdahl and Hix 2006).

Taking into account all these elements, it is clear that the legislative, budgetary and appointment competences of the Parliament have been increased under Lisbon. Thanks to this expansion of powers the EP changed its status from consultative body to co-legislator at the same level as the Council. Moreover, even if the Commission is not as strong as it was in 1980s, its competences are still extremely important as it has the responsibility for submitting new legislation and has the best position when it comes to negotiating with interest groups and national governments (Christiansen 2008). Therefore, when looking at the relationship between all the institutions, it cannot be argued that the Lisbon Treaty has been a major institutional change in the course of European History (Pech, 2011).

In addition, the Lisbon Treaty has not reached its set goal to abolish the "democratic deficit" in the EU. I would even argue that all the efforts put into the expanding the Parliament's competences have been in vain. Because of the trilogues the legislative procedure is neither transparent nor democratic. Moreover, although EU citizens participate to the budget with their taxes, their demands are not well reflected. Finally, the Lisbon Treaty has not resolved the issues of unawareness, protest vote and lack of interest.

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