

The Impact of the Lisbon Treaty on the SRHR Community

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The Lisbon Treaty was signed on 13 December 2007 by the EU Heads of State and Government. Nearly all EU countries have ratified the Treaty, except Germany, the Czech Republic and Poland, where ratification is still in progress. Ireland rejected the Treaty by referendum vote in June 2008, and has a second referendum due to take place on 2 October 2009. It is expected that it will be approved in Ireland this time, since the European Council of June 2009 gave guarantees to Ireland that the Treaty will not affect Irish constitutional provisions on life, the family or education, EU taxation competence or Ireland's military neutrality.

The entry into force of the Lisbon Treaty will have significant implications for the competences and functioning of the EU institutions. This is particularly true in terms of the EU's organization into 'three pillars', or three institutions responsible for making policy and taking decisions. The Lisbon Treaty will merge the three EU pillars (European Community, Common Foreign and Security Policy, Police and Judicial Cooperation in Criminal Matters) into one legal entity.

The **Council of the EU (Council of Ministers)** now acts in a closed sphere. Under the Lisbon Treaty most of its elements will stay the same, but it will act in public when it deliberates legislative acts. This is where national advocacy is key for European decisions. Also in the Council, qualified majority voting and 'co-decision' will become the general rule after 2014.

The Lisbon Treaty also introduces the Ioannina Compromise to enable some governments to be able to protect their interests in the EU decision-making process – the thinking behind this is mainly related to sensitive areas such as agriculture, justice and home affairs. In terms of blocking procedure, anti-choice governments such as Poland, Ireland and Malta now need two large Member States to block a procedure. After 2014, with the application of the Ioannina Compromise, they could block a procedure with only one large Member State, such as Germany. After 2017, Poland and France alone could ask to review a decision! In light of this, advocacy needs to be stronger, because a small group of Member States will be able to block decisions. We also need to have strong national and international messages. It will be very important to work with anti-choice governments and with the largest Member States.

It is worth noting that as many as 8% of proposals made by the European Commission under the co-decision procedure are suggested by interest groups and NGOs. This shows that it is possible for NGOs to influence the EU agenda and that there are good opportunities for NGOs. Moreover, 'Conclusions' and other non-legislative acts are often adopted by the Council of the EU (GAERC) and the European Council ('Presidency conclusions'). They are reached by consensus, not by voting. This will not change with the Lisbon Treaty. Influencing them is important for SRHR because they define political guidelines for EU Institutions.

The powers of the **European Parliament** will be substantially extended under the Lisbon Treaty. The Parliament will share equal power with the Council of the EU in setting the EU budget, and co-decision will be extended to almost all policy fields. Politically, the

Parliament's power will be extended as it becomes more involved with election of the President of the Commission; this is a new procedure which requires further consideration of the Parliament. The increase of the European Parliament's powers and political weight within the institutional triangle are factors for us to watch.

The **European Commission** now has 27 Commissioners – one per Member State. With the Lisbon treaty, by 2014, there will be 18 commissioners who will be selected on a system of equal rotation among the Member States, established unanimously by the European Council. This means that some countries will lose their commissioners.

The European Council is relatively unstable because the presidency changes every six months. Under the Lisbon Treaty the president will be elected full time with a mandate of two-and-a-half years, renewable once, which will bring stability to the Council. The president will have no national function.

The Lisbon Treaty and the external action of the EU

Under the Lisbon Treaty, the fight against poverty is said to be at the heart of EU development policy, which is great for SRHR. The consistency requirement has been strengthened, and there is a move to ensure that EU development cooperation policy and the Member States' policies mutually reinforce each other (a 'Europeanization' of development cooperation). The Treaty does not make any mention to the 'specificity of cooperation with ACP countries', which enables the European Development Fund (EDF) to be included in the ordinary budget of the Union, voted in co-decision with the Council. The potential inclusion of the EDF in the general EU budget is an area of concern for us.

A High Representative of the Union for Foreign Affairs and Security Policy will be appointed by the European Council to enhance unity of EU external action. The High Representative will be supported by a new service called the European External Action Service (EEAS), which will be composed of officials of the Council, the Commission and seconded diplomats from Member States. The EU Delegations will be directed by the EEAS. However, the Lisbon Treaty does not define the EEAS's functioning, content and organization, which will be defined by a Council decision once the Treaty is in force.

European External Action Service and reform of the Commission

Under Lisbon, the EU Delegations will have a legal 'personality', enabling them to represent the EU, and they can '*contribute to the formulation*' of policies. The main challenges are to determine how the Commission and the Council will work together, as there might be opposition between the two entities. There is also a question about where the European Commission Humanitarian Aid Department (DG ECHO), Directorate General for Development (DG DEV), EuropeAid Cooperation Office (AIDCO) and others will be situated. If they are outside the EEAS, a single service will be established within the Commission, embracing all EU development policies. Within such a Single Service there will be a need for clear separation in terms of how each area of policy is pursued. If they are located inside the EEAS, there is concern that development cooperation and humanitarian assistance will be submitted to a diplomatic agenda.

There will also be a specific legal base for humanitarian aid. The Union may conclude agreements with third countries and international organizations. There will also be the creation of a **European Voluntary Humanitarian Aid Corps** to provide 'a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union'. The Union shall ensure the coordination and consistency of humanitarian aid

operations. However, the Lisbon Treaty does not mention the principle of independence, therefore there are concerns that the humanitarian response will be subject to political objectives.

Opportunities for advocates

National Parliaments will have eight weeks after publication of an EU legislative proposal to vet that proposal and offer an opinion. Each National Parliament has two votes and review takes place if 18 votes are 'pro' (1/3 of the available votes). For our advocacy, it is important to work with other partners on SRHR to lobby the national parliaments. Nine countries veto a decision!

At least one million citizens, coming from a significant number of different Member States, may put forward a petition inviting the Commission to bring forward a proposal in any area which comes within the Union's sphere of responsibility. Arrangements for managing the citizens' initiative will need to be agreed after the Treaty comes into force.

The presentation summarized here can be accessed at <http://www.eurongos.org/Default.aspx?ID=18832>.