

NEWSLETTER No. 2
 February 2011

LISBOAN is a network of 67 partner institutes from 32 European countries (including most TEPSA institutes) and is coordinated at the Jean Monnet Chair of Professor Wessels, University of Cologne. The multi-disciplinary project, which receives financial support from the European Union’s Lifelong Learning Programme, aims at improving teaching of and research on the Treaty of Lisbon.

UPDATE IN BRIEF

Erasmus Workshop

The ERASMUS Coordinator’s Meeting was held in Brussels on 20th and 21st January (see page 2).

LISBOAN Awards

The calls for the “LISBOAN Award for Outstanding Research” and the “LISBOAN Award for Outstanding Research” have been published on 16th February (see page 2).

***** Save the dates*****

LISBOAN Annual Conference

The first annual conference of the LISBOAN network is scheduled for 16th-17th June, 2011. All seven LISBOAN Working Groups will meet for the first time in the framework of the conference (see page 2).

PhD School “Europe in the world”

The first summer school will be on “Europe in the world” and take place from 29th August to 10th September in the University of Crete, Greece (see page 2).

Workshops

Two workshops in the Netherlands and in Austria, dealing with AFSJ and the EEAS, respectively, will take place in autumn 2011. For details on the AFSJ workshop, see the call for papers on page 3. Details on the EEAS workshop, organized by Markus Kornprobst and Hans Peter Neuhold in Vienna on 4th November 2011 will follow soon.

*****Lecture Series*****



The network funds guest lectures by network partners at other network institutions with up to EUR 1.000 for travel, accommodation and other related costs (see page 2)

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NEWS FROM THE NETWORK

Report from ERASMUS Coordination Meeting

On 20th and 21st January 2011, EACEA held an Erasmus Coordinator's meeting in Brussels, bringing together all project managers of Erasmus projects selected in 2009 and 2010. Tobias Kunstein participated on behalf of LISBOAN. Mainly dealing with legal and managerial questions, the meeting also provided the opportunity to benefit from experiences already made by other projects. Although the topics addressed within the Erasmus programme vary greatly – from psychology over nutrition science to semiotics –, it became clear that projects have to deal with similar issues in their daily work. How to effectively disseminate the project results? How to integrate partners into the network's activities? Which formal requirements will have to be met at reporting stage? These and related questions were discussed in a number of workshops and plenary sessions. One of the key debates concerned the reporting procedures. The EACEA stressed the need to consistently document all expenditure. *As a result, the Coordinating Institution is supposed to keep a copy of all receipts.*

Incidentally, it transpired that in terms of partner institutions there are even larger projects than LISBOAN (a network of 128 partners was represented at the meeting).

Meeting documentation is available at this [link](#).

Lecture Series

The network funds guest lectures by network partners at other network institutions with up to €1.000 for travel, accommodation and other related costs. If you would like to make use of this opportunity, please contact Gunilla Herolf (WP Leader, herolf@sipri.org) or Tobias Kunstein (tobias.kunstein@uni-koeln.de).

Awards

LISBOAN offers annual awards for excellence in teaching and research with a view to the Treaty of Lisbon. The awards are also open to non-members. Each award is endowed with a prize of EUR 1.500 and may distinguish a wide variety of persons or activities: senior or young

researchers, docents, but also academic careers, online courses, text books, etc.

Call for Application "LISBOAN Award for Outstanding Research"

The LISBOAN Erasmus Academic Network calls for applications/nominations for its research award. The award distinguishes an excellent piece of work of a researcher in the field of European integration, contributing substantially to the state of the art of research on the Treaty of Lisbon and its implementation, and/or has influenced academic and political debates on the Treaty of Lisbon in Europe.

The award is endowed with 1.500 €.

Application Deadline 22/04/2011

Please see the LISBOAN website for further information: www.lisboan.net/awards.html.

Call for Application „LISBOAN Award for Outstanding Teaching“

The LISBOAN Erasmus Academic Network calls for applications for its teaching award. The award distinguishes the work of a person with an outstanding academic record in the field of European integration, who has developed and/or used innovative means of teaching the Treaty of Lisbon, and/or enhanced the visibility of EU studies and in particular studies of the Lisbon Treaty as a subject among wider parts of academia, practitioners and the interested public, and/or linked research and teaching on the Lisbon Treaty in an exemplary manner.

The award is endowed with 1.500 €.

Application Deadline 22/04/2011

Please see the LISBOAN website for further information: www.lisboan.net/awards.html.

UPCOMING LISBOAN EVENTS

First Annual Conference, 16-17 June 2011

All network partners are invited to attend the network's annual large-scale event, hosted by the Trans European Policy Studies Association (TEPSA) in Brussels. The network will cover all travel and subsistence costs for one person per partner.

The programme will include a General Assembly, Plenary Sessions as well as intensive Working Group meetings.

Thursday, 16th June: Start at 11 am, General Assembly, Lunch, First set of Working Group Sessions (three out of seven), Second Set of Working Group Sessions (four out of seven), Public lecture, Dinner.

Friday, 17th June: Plenary Session, Award ceremony, Lunchtime debate, End around 1 pm. The seven Working Group sessions will be organized by Workpackage Leaders. Each Working Group will address one of the following overarching areas:

- 1) Institutional Architecture
- 2) Lisbon Treaty, Integration Theories and Governance
- 3) Economic and Financial Policy
- 4) Lisbon Treaty in a short, middle and long term perspective
- 5) Area of Freedom, Security and Justice
- 6) External Action and CFSP
- 7) Legal quasi-constitutional nature of the Lisbon Treaty

In order to foster exchange and cooperation across disciplines, each conference participant will be able to participate in two different Working Group sessions.

First PhD School “Europe in the World”, 19th August -10th September 2011

Each year, a selection of PhD students from all member institutes will have the opportunity to participate free of charge in a week-long PhD school organized by network members. The preparations for this year’s PhD school have already begun. Organized by our network partner Ian Manners from the Roskilde University, Denmark, this year’s Summer School “Europe in the world” will take place from 29th August to 10th September at the University of Crete, Greece. More details will be available soon.

Workshop of Workpackage 5: Area of Freedom, Security and Justice after the Lisbon Treaty

The workshop is organized by **Ronald Holzhaecker and Paul Luif**. It will take place in the Netherlands in mid-October 2011.

Governance changes in the Area of Freedom, Security, and Justice after the Lisbon Treaty: Internalization within the EU and the member states and externalization in foreign policy

Call for papers: The organizers are interested in developments at the EU level as well as the impact which the EU developments in the area of AFSJ have on policy and governance in the member states as part of the implementation process. These challenges also involve the accession countries and the neighbours of the EU.

In this workshop, both single studies of member states and comparative and horizontal studies are welcome. We aim to bring together a group of scholars from across the EU, both Western and Eastern Europe.

For the full call for papers, please see www.lisboan.net/afsj.html.

NEWS FROM PARTNER INSTITUTIONS

Upcoming Conferences and Workshops

The University of Liverpool is hosting a conference on the new EU Citizens’ Initiative on Friday 6th May 2011. The conference is co-funded by the European Commission Representation in the UK, the University Association for Contemporary European Studies and the Liverpool Law School.

The EU Citizens’ Initiative: Normative, Legal and Policy Perspectives

The Lisbon Treaty made provision for the introduction of a novel instrument for direct democratic participation in the EU’s decision-making processes. The CI permits a sufficient number of Union citizens from a significant number of Member States formally to request that the Commission consider a given proposal for EU action. The aim of the Liverpool conference is to bring together critical, interdisciplinary and comparative analysis of the new CI. Confirmed participants include: Jens Nyman-Christensen (Director, Secretariat-General of the European Commission), Prof Jo Shaw (Edinburgh), Dr Charlotte O’Brien (York),

Prof Graham Smith (Southampton), Josef Hein (EUI) and Dr Mads Qvortrup (Cranfield). For further information, or to register your interest in attending the conference, please contact Prof Michael Dougan (m.dougan@liv.ac.uk).

Past events

20th January 2011: “Romania in the Post-Lisbon Period”. Roundtable for postdoctoral, doctoral and master students, Faculty of European Studies, Babeş-Bolyai University. For more information on the event, please contact Adrian Corpadean (adi_corpadean@yahoo.com).

Publications

Olivier Costa, Nathalie Brack, “Le fonctionnement de l’Union européenne”, Editions de l’Université de Bruxelles, 2011. ([Link](#)).

Shawn Donnelly’s (Centre for European Studies/Institute of Governance Studies at the University of Twente) most recent book on financial market regulation in Europe, “The Regimes of European Integration: constructing governance of the single market” has been nominated by Oxford University Press for the UACES Best Book Prize 2010. ([Link](#)).

John Erik Fossum, Agustín José Menéndez, “The Constitution’s Gift: A Constitutional Theory for a Democratic European Union”, Rowman & Littlefield, 2010. ([Link](#)).

Peter Van Elsuwege, “EU external action after the collapse of the pillar structure: In search of a new balance between delimitation and consistency”, *Common Market Law Review* 47(4): 987–1019, August 2010.

INTRODUCING THE NETWORK

LISBOAN is structured into seven thematic and nine horizontal workpackages (WPs). Each newsletter contains a section briefly introducing a few of them and/or the respective Workpackage Leaders in no particular order.

Thematic WP: Institutional Framework

Edward Best kindly agreed to act as WP leader of the thematic work package 1 “The EU’S institutional framework post Lisbon” within the LISBOAN network. He coordinates



the working group meetings at the annual conferences, ensures cohesion of the workshops and relays results to the workpackages dealing with Dissemination and Exploitation of results. Edward Best, based at the European Institute for Public Administration (EIPA), is a senior fellow regularly lecturing for European and national public officials on the Lisbon Treaty and its impact on EU institutions and decision-making. He can be contacted at e.best@eipa.eu.

Thematic WP: Integration and Governance

Simon Bulmer acts as WP leader of the thematic work package „Integration and Governance Research after Lisbon“. He will coordinate the working group meetings at the annual conferences and relay results to the workpackages dealing with Dissemination and Exploitation of results. He will also organize the workshop “European Governance after Lisbon” in Sheffield. Simon Bulmer is located at the University of Sheffield. His principal research interests are European Union-member state relations (especially Germany and the UK); EU governance; and new institutionalism. His contact details are: s.bulmer@sheffield.ac.uk.



Horizontal WP: Management

On behalf of the Project coordinator Wolfgang Wessels and the Steering Committee, *Nicole Ahler* acts as the programme officer of the LISBOAN network. She will assist the project manager. She is a research fellow and PhD candidate at the Jean Monnet Chair of Prof.



Wessels in Cologne. If you have any remarks or questions related to the project, especially the newsletter, Awards and guest lectures, please send an email to ahlern@uni-koeln.de.

Johannes Müller Gómez is student assistant at the Jean Monnet Chair of Prof. Wessels. He supports the project team in the management of the LISBOAN network. He is doing a Bachelor’s degree majoring in Political Science and Latin American Studies.



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Imprint

LISBOAN, a project funded under the European Union's Lifelong Learning Programme (LLP), contract 177316-LLP-1-2010-1-DE-ERASMUS-ENWA.

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Disclaimer: This project has been funded with support from the European Commission. This publication reflects the views only of the author, and the Commission cannot be held responsible for any use which may be made of the information contained therein.



FEATURED ARTICLE SECTION

From this newsletter on, this section will be available for concise articles dealing with recent developments in the field of research on the Treaty of Lisbon. Partners are invited to send in contributions.

After Lisbon: towards the harmonization of procedural guarantees in criminal matters

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>>>> The fall of the 'pillar structure' and the binding character of the Charter provided by the Treaty of Lisbon seem to have favored a more appropriate balance between the different founding elements of the AFSJ with respect to what occurred in the past. As we will try to underline, the Directive on the rights to interpretation and translation in criminal proceedings, recently adopted, constitute the first example of this change of view¹.

¹ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, in

Before the last reform of the Treaties, the main measures adopted in the Third Pillar aimed at enhancing cooperation between police and judicial authorities in combating serious crimes,² the so-called security aspect of the AFSJ, and this was not accompanied by a higher degree of protection of procedural guarantees.³

The majority of the acts adopted in this area are the expression of the principle of mutual recognition between Member States⁴; a principle created by the Court of Justice in the First Pillar and extended to the Third Pillar also thanks to the European Council of Tampere. On this

Official Journal of European Law, L 280 of del 26 October 2010, p. 1.

² See the European arrest warrant and the surrender procedures, Council Framework Decision [2002/584/JHA](#) of 13 June 2002, [2002] OJ L 190/1, that has replaced the extradition procedures; see the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters, Council Framework Decision [2008/978/JHA](#) of 18 December 2008, [2008] OJ L 350/72. See also Council Framework Decision [2003/577/JHA](#) of 22 July 2003 on the execution in the European Union of orders freezing property or evidence; Council Framework Decision [2008/675/JHA](#) of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings, [2008] OJ L 220/32; Council Framework Decision [2008/909/JHA](#) of 27 November 2008 on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, [2008] OJ L 327/27; Council Framework Decision [2008/947/JHA](#) of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions, [2008] OJ L 337/102.

³ According to E. Baker, C. Harding, "in a context where the Union's legal regime to protect fundamental rights is widely regarded as inadequate, its deficiencies with respect to the Third Pillar are particularly acute", 'From a past imperfect to future perfect? A longitudinal study of the Third Pillar, in *European Law Review*, 2009, n. 34, p. 45.

⁴ Among these acts the most important is the European Arrest Warrant.

occasion, the Heads of State and Government considered it as the cornerstone of judicial cooperation in both civil and criminal matters, together with the harmonization of the procedural rights and access to justice. As a consequence, the Commission and the Council were invited to act consequently ensuring an adequate level of legal aid in cross-border cases throughout the Union. In the period following the Tampere Summit, however, the focus was on ‘repression’ rather than on procedural guarantees. European criminal law must be understood as a law used not only against persons, but also to protect persons. The protection of fundamental rights is an unfailing necessity in all areas of EU action and not only as a limit to optimal cooperation in criminal matters. The subordinate position that rights have instead assumed in recent years certainly does not match the “constitutionalization” of the Charter of Fundamental Rights.

Judicial cooperation mainly depends on mutual trust between the Member States concerning their criminal systems; the harmonization of procedural rights thus becomes a priority. In order to facilitate the implementation of the principle of mutual recognition, action should be taken to guarantee common minimum standards. This explains why, on the one side, the European Commission submitted a proposal for a Framework Decision on five basic procedural rights in criminal proceedings.⁵ On the other hand, in spite of wide academic support, this proposal remained stalled

⁵ European Commission, Proposal for a Council Framework Decision on certain Procedural Rights in Criminal Proceedings throughout the European Union”, COM(2004)328, 24 April 2004. The five rights mentioned in the proposal of Framework Decision were: right to legal advice, right to interpretation and translation for non-native defendants, right to specific attention for persons who cannot understand or follow the proceedings, right to communication and/or consular assistance, the way in which the suspect/defendant is notified of his rights.

in the Council for more than five years. And this independently of the fact that its contents have been substantially diluted in the quest for unanimous consent. Moreover, the Multiannual Hague Programme on the strengthening of the Area of Freedom, Security and Justice has underlined that “the realization of mutual recognition implies the development of equivalent standards for procedural rights in criminal proceedings”. The adoption of the proposal was obstructed by those States fearing a duplication of the ECHR content, with possible repercussions on the consistency between the case law of the Strasbourg and Luxembourg Courts, as well as on legal certainty for EU citizens and Member States.⁶

Although all Member States are parties to the Convention, experience shows that this in itself does not always provide a sufficient degree of trust in the criminal justice systems of other Member States. To enhance mutual trust within the European Union, it is important to establish EU standards for the protection of procedural rights.

In 2009, probably because of the imminent entry into force of the Lisbon Treaty, the need to balance security and justice became a priority for all European Institutions. Following the Tampere European Council, the Lisbon Treaty explicitly underlined the importance of fundamental rights in the Area of Freedom, Security and Justice.⁷ A compromise had to be found between mutual recognition of judicial decisions and the harmonization of criminal law and the Lisbon Treaty appears to have acknowledged the complementary nature of these objectives.⁸ Moreover, unlike the previous Art. 29 TEU, Art. 67 (3) TFEU provides that the approximation of

⁶ There are the same fears that accompanied the elaboration and adoption of the Charter.

⁷ Art. 61 TFEU.

⁸ C. Ladenburger, ‘Police and criminal law in the Treaty of Lisbon. A new dimension for the community method’, in *European Constitutional Law Review*, 2008, p. 35.

criminal law is supported by, and no longer subordinated to, the needs of judicial cooperation in criminal matters,⁹ assuming therefore an autonomous importance.

Consequently, the strengthening of rights is seen as the essential element not only to develop confidence between national criminal authorities, but also to increase the confidence of European citizens in the European Union.

The Council decided to use a step-by-step approach, focusing its attention on each individual measure. In a resolution on a roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings it included a non exhaustive list of measures to be adopted.¹⁰ It is important to note that the Council specified that any new EU legislative acts in this field should be consistent with the minimum standards set out in the ECHR, as interpreted by the European Court of Human Rights. In accordance with this roadmap, the Commission presented a proposal for a Framework Decision on the right to interpretation and translation in criminal proceedings, that constituted the right which appeared to be the least controversial in the preceding discussions.

With the entry into force of the Lisbon Treaty this proposal needed to be transformed into a Directive adopted pursuant to the new ordinary legislative procedure and subject to full judicial scrutiny by the EU CJ. Responding to this necessity, thirteen Member States proposed an initiative; just after, the European

Commission advanced its own autonomous proposal. According to Art. 44 of the Rules of Procedure of the European Parliament, the responsible committee (LIBE) drafted a single report proposing amendments to the Member States' initiative, but referring to the Commission's proposal in the legislative resolution.

This double proposal expresses the will of each actor competent to advance legislative proposals to affirm its position in a particularly sensitive area as the protection of procedural guarantees, in a sort of race to the top concerning the level of offered guarantees. In fact, the more safeguarding provisions contained in the Commission's proposal significantly influenced the amendments elaborated by the LIBE to the initiative presented by the Member States that afterwards are included in the directive adopted by the Parliament and by the Council during the first reading of the ordinary procedure¹¹. The content of this act is ambitious and the latter could meet the resistance of the Member States during its implementation, due to the costs necessary to guarantee the right to interpretation and translation in criminal proceedings. But it comes to assure fair trial, to decrease the number of appeals and to avoid miscarriage of justice.

It is important to remark that this directive is the first act adopted by the Council acting by a qualified majority together with the European Parliament, according to the ordinary legislative procedure extended to the judicial cooperation in criminal matter. Certainly, for the first time in this area, thanks to the Lisbon Reform, the European Parliament played a key role and therefore promoted fundamental rights protection in the European Union, avoiding the downtrend that characterised negotiations within the Council in the previous years. <<<<

⁹ C. Sotis, 'Il Trattato di Lisbona e le competenze penali dell'Unione europea', in *La Magistratura*, 2009, p. 27.

¹⁰ Resolution of the Council of 30 November 2009 on a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings, [2009] OJ C 295/1. The measures included into the roadmap are: translation and interpretation, information in Rights and Information about the Charges, Legal Advice and Legal Aid, Communication with Relatives Employers and Consular Authorities, Special Safeguards for Suspected or Accused Persons who are Vulnerable, and finally a Green Paper on Pre-Trial Detention.

¹¹ The European Commission presented another proposal of directive, contained in the roadmap, this time on the rights to information in criminal proceedings, COM (2010)392.