

Working Group Workpackage VII

Quasi-constitutional nature of the Lisbon Treaty (WP leader: Lucia S. Rossi)

Agenda

Thursday 10th May 2012

16.30 – 18.30 h

Fondation Universitaire, Rue d'Egmont 11

Salle D

“Assessing the quasi constitutional nature of the Lisbon Treaty”

Outline:

Following discussions in the first Working Group session under the title “Laying the foundations of a European Constitution”, the Second Working Group session will dwell upon the constitutional principles operating within the EU legal order, as enshrined in the Lisbon Treaty. Most notably the attention will focus on primacy, direct effect, conferral of powers, sharing of competences, subsidiarity and fundamental rights protection. In addition, the relationship between the national constitutional courts and the EU constitutional order will be analysed in order to verify possible existing tensions and establish the viability of the legal instruments put into place in order to overcome them. In this sense, the participation of practitioners from the Brussels area is strongly encouraged.

The third Working Group session in 2013 will be entitled “Towards a multi-level Constitution in the European Union” (2013)

Introductory Statements:

Giacomo di Federico, University of Bologna

Jean Paul Jacqu e, TEPSA Brussels

Lucia S. Rossi, University of Bologna

Discussion

Report

The leader of the Work Package VII, *Lucia S. Rossi* (University of Bologna) and her colleagues discussed the quasi-constitutional nature of the Lisbon Treaty and consequent future impacts on the issue of solidarity in the context of European citizenship and fundamental rights.

In his introductory remarks, *Jean-Paul Jacqu * (TEPSA Brussels) outlined the current legal framework of the European Union (EU) and its path towards a constitutionalized EU. His main two questions were: Does the EU's legal order post-Lisbon guarantees fundamental (human) rights for its citizens? Is a (federal) constitution, comparable to the Constitution of the United States, needed? In Prof. Jacqu 's opinion a federal system does not necessarily require the legal and political structure of a state in order to ensure human rights. In the current EU setting, the EU's institutions, e.g. the European Parliament have the legal power to punish EU member states regarding the violation of human rights. Yet there is an essential lack of what he described as 'political power'.

In a second round the debate focused on the exact boundaries of applicable EU citizenship law. Where is the borderline between the cross-border people and internal people element? How to use and apply fundamental citizenship rights in cross-border situation? In that regard the discussants highlighted the impacts of several European Court of Justice (ECJ) cases, e.g. the 2010 Rottmann case.

The issue of solidarity, both between institutions and member states and between member states and its citizens, and the principle of loyal cooperation (→ the loyalty of the EU's institution) were discussed in the concluding minutes. From a legal point of view solidarity is essentially mentioned in the Lisbon Treaty and part of the constitutional fragment of the treaty. Yet one open question still remains: What do the treaty's solidarity references oblige the EU's institution and member states to do? With regard to issue of loyalty of the EU's institution, participants concluded that loyalty continues to be unclear and further ruling by the ECJ is needed.

Andreas Raspotnik (TEPSA Brussels)