

## Report

### **LISBOAN Working Group Workpackage V (WP Leader: Paul Luif) „The Area of Freedom, Security and Justice: Has Lisbon changed the decision-making procedures in Brussels?“**

**June 16<sup>th</sup> 2011, 13.30 - 15.00 h**

As far as the Area of Freedom, Security and Justice is concerned, a major innovation introduced by the Lisbon Treaty is that the treaty abolished the EU's "pillar structure". In particular, the remaining topics of the former "Third Pillar" have been included into the mainstream EU decision-making. The idea of the Working Group session was to discuss the (expected and unexpected) changes of the Lisbon Treaty in Justice and Home Affairs (JHA) as seen by practitioners in Brussels. The working group's chair Paul Luif (Austrian Institute International Affairs) welcomed the participants and provided some introductory remarks on changes that the Lisbon Treaty brought about in JHA.

Subsequently Martin Schieffer (Directorate-General for Home Affairs of the European Commission, responsible for Internal Security), described the first experiences of policy-makers with the new legal framework since the coming into force of the Lisbon Treaty and discussed his insights with the researchers.

Mr. Schieffer pointed out that although procedures within the European Commission as well as on the inter-institutional level had not changed substantially so far, the Lisbon Treaty implied substantive changes in JHA/AFSJ. For him one of the most visible changes was the new status of the Charter of Fundamental Rights, which had become legally binding and not "just" a political declaration. Arguing that the consequence was an increased visibility of the Charter within all legal initiatives, proposals and legal acts, he concluded that the legal arena of JHA had been changed markedly. Furthermore, he opined that there were substantial changes in the area of CSDP, since internal security has become more entwined with the external policy of the EU, e.g. in the case of migration.

Mr. Schieffer believed that the biggest change in procedural terms within the Commission itself was the co-decision procedure in the area of freedom, security and justice. As a result, the power of the EP had been increased, whereas the commission had lost its exclusive right of initiative. He argued that the parliament now was a second player on an equal basis with the Council, although the Council so far seemed not to take the EP too seriously. Mr. Schieffer pointed out that, on the other hand, in his eyes the EP itself still found it difficult to deal with JHA in a "mature" way. So far it has seen itself only as "Guardian of the Fundamental Rights" and has been less interested in the "other side of the coin", i.e. security issues.

According to M. Schieffer the work within the Council had not changed much so far, procedures have stayed the same. Only the decision-making in the very end of the process has changed with the co-decision procedure. The role of the European Council also had not changed dramatically in this area. It was still giving general directions like the Stockholm programme that will run until 2014.

The power of the Court of Justice of the European Union had increased with the Lisbon Treaty. However, according to the speaker it remained to be seen what the changes will be. First cases are only now dealt with at the Court of Justice of the European Union. But Mr. Schieffer said that the Court of Justice of the European Union also played a role as policy making institution through "constructive ambiguity" that had been introduced by the EP and the Council. If they could not agree on a specific legislation, then it was left open for interpretation for the Court of Justice. In these cases, he concluded, the Court of Justice of the European Union participated actively in the decision-making process.

Finally, the speaker turned to the role of agencies like Frontex, EuroJust and Europol. He described that their influence had increased and that they received a greater share of the EU budget. Mr. Schieffer pointed out that in general in the EU the operational dimension was growing and getting more important. The classical legislation was not in the focus of change, but the operational part was most dynamic.

After these remarks the audience had the chance to ask questions and discussed the role of the Court of Justice of the European Union, the role of national parliaments and the new status of the Charter of Fundamental Rights.