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Working Paper 4
The treaty of Lisbon,
defining the European Union

Project Schuman2030

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Abstract:

This Working Paper analyses the Treaty of Lisbon, that is reflected the current treaty basis for the functioning of the European Union. We document how it was deemed necessary and how it was finally ratified as a substitute for a failed European Constitution.

We further analyse the large transfer of competences from the member states to the EU institutions but also how its provisions did not remove the democratic deficit that existed even before the treaty was ratified. Finally, an attempt is made to identify how the current treaties can be amended to address its issues. In particular we investigate how democratic control can be regained at the level of the member states while the supra-national competences can be strengthened to address current geo-political challenges.

Note:

This is Work In progress. As feedback is collected, arguments raised and more data is discovered, we expect the project to evolve. And in the end, it will be up to national and EU parliaments to implement a concrete framework for 2030.

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Why the Lisbon treaty is not final

The European Union has always followed a path of successive changes, often triggered by a passage through crisis, be it internally or because of the geopolitical context. Each time, inadequacies came to light and new treaties were ratified or existing treaties were amended.

Firstly, the last treaty, i.e. the Lisbon treaty followed a curious path. Originally meant as a new treaty, the Constitution of the European Union, it was replaced by a new treaty in the form of an extensive list of amendments to existing treaties. This path is worrisome as it undermined the democratic legality of it, even if arguments can be raised that it was a necessity long overdue. It did not help in getting citizens' support, which is a long-term risk that is currently emerging.

Secondly, the treaty was meant to increase the democratic process in Europe but this largely failed in practice. National as well as the EU parliaments, even if they are the official legislative powers, largely rubberstamp the Commission's proposals and directives. Very seldomly are these challenged. The reasons are not so much the treaty itself but the fact that the real power is under control of political parties and the nation's executive powers. It should be noted that this reflect very often the situation at national level which is projected at the EU level. In both cases, the members of parliament who are supposed to represent the citizens, do not act on behalf of the citizens but on behalf of political parties and the power structures behind them. And as was pointed out, this undermining of democratic principles is reinforced by a salient majority that has intruded the institutions and media. In addition, lobbying by strong groups and organisations heavily influences the decision-making processes. The Lisbon treaty does not seem to have anticipated these democracy undermining actors.

Thirdly, the Lisbon treaty transferred many competences from the national to the European level. It allowed the EU to impose stringent measures on all member states during the Covid epidemic, stringent CO2 emission obligations, a counter-productive energy policy and an avalanche of regulations in many domains that impact on the industry but also on citizens' daily life. It is questionable if these grand schemes like the "Green Deal" would ever have materialised if a real democratic decision process would have been in place. Practice has also shown that the treaty did not establish clear boundaries between competences at the national and supra-national level. This weakness was exploited to impose many regulations from the top, often ignoring that the EU is composed of a heterogenous set of nation states.

Fourthly, the Lisbon treaty did no establish a structure that would have allowed the EU to act as a strong unified block at the supra-national level. While some steps were taken, in practice the EU still acts as a weak, opportunistic collection of national states and heads of state, while important decisions can still be blocked by a single member state. This concerns domains like defence, international politics, economic policies and innovation strategy.

And last but not least, if one looks at what the EU in Europe achieved in the last 20 years, then it is clear that the treaty was fraught with wishful thinking. The position of the EU in the world has been shrinking economically as well as politically and continues to do so. The EU is known for

its high level of social security programs, taxes, regulations and quality of education. These are increasingly financed by debt whereas the economy is shrinking and hence the export balance is not generating the means to finance it. Other power hegemonies are exploiting this weakness, be it economically or geopolitically. Would there have been a tariff war if the EU would have in a strong economic position? Would there have been a huge import dependency on China if the European industry would have remained competitive? Would there have been a war with Russia, if the EU would have had a strong deterrent defence organisation?

All above points to the need revising the Lisbon treaty. On the one hand, competences need to be delegated back to the nation states and citizens need to regain democratic control. Guidelines and norms can be supra-national, concrete regulations can be national. On the other hand, the EU needs a much stronger structure at the supra-national level. In essence, the EU should focus exclusively on those domains that are supra-national by definition and in practice.

Proposals for amending the current EU treaties, particularly the Treaty of Lisbon, have emerged to address various issues identified in the EU's functioning and governance. In the last section we highlight some key proposals and discussions surrounding these amendments. Most of these focus on the creation of a federal state or clarify the current treaties whereas we believe that in line with Schuman's ideas nothing excludes more sovereignty at the national level. This topic of reform initiatives is being elaborated more in detail in a subsequent Working Paper.

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2 Introduction: from Maastricht to Lisbon

As was outlined in WP3, the history of Europe is one of treaties. The Treaty of Maastricht (1992) is arguably the single most transformative moment in European integration. It turned what had been primarily an economic community into a full-fledged political union. Here's a structured breakdown of everything it introduced.

2.1 Creation of the European Union Itself

The most fundamental change was **renaming and restructuring**. Before Maastricht, there was no "European Union" — only the *European Economic Community (EEC)* and related bodies. The treaty formally **established the EU** as a new overarching entity, signalling a shift from purely economic cooperation to broader political integration.

The treaty announced *"a new stage in the process of European integration"* and set the EU on a path toward shared governance in areas far beyond trade and markets.

2.2 The Three-Pillar Structure

Maastricht organized the EU into a distinctive **three-pillar architecture**, each with different decision-making rules:

Pillar	Scope	Decision Method
Pillar I — European Communities	Single market, trade, agriculture, competition, EMU	Supranational (Community method — Commission proposes, Council & Parliament decide)
Pillar II — Common Foreign & Security Policy (CFSP)	Foreign policy, defence, security cooperation	Intergovernmental (unanimity among member states)
Pillar III — Justice & Home Affairs (JHA)	Immigration, asylum, police cooperation, judicial cooperation in criminal matters	Intergovernmental (unanimity)

This structure was a **political compromise** — member states wanted to cooperate on sensitive issues like defence and policing but were unwilling to hand decision-making power to supranational institutions in those areas.

The result was a hybrid system where Pillar I operated supranationally while Pillars II and III remained firmly under national government control. This pillar structure was later abolished by the Treaty of Lisbon in 2009, which unified everything under a single legal framework.

2.3 Economic and Monetary Union (EMU) & the Path to the Euro

One of Maastricht's most consequential achievements was laying out a **three-stage roadmap to a single European currency**:

The Three Stages:

1. **Stage 1 (1990–1993)**: Free movement of capital between member states
2. **Stage 2 (1994–1998)**: Establishment of the **European Monetary Institute** (precursor to the ECB), convergence of national economic policies
3. **Stage 3 (1999 onward)**: Introduction of the euro and creation of the **European Central Bank (ECB)**

2.4 The Maastricht Convergence Criteria

To qualify for the euro, member states had to meet **five strict economic benchmarks**:

- **Price stability**: Inflation no more than 1.5 percentage points above the three best-performing member states
- **Sound public finances (deficit)**: Government budget deficit no greater than **3% of GDP**
- **Sustainable public finances (debt)**: **Government debt no greater than 60% of GDP**
- **Exchange-rate stability**: Participation in the Exchange Rate Mechanism (ERM) for at least two years without severe tensions
- **Long-term interest rates**: No more than 2 percentage points above the three best-performing member states

These criteria remain in force today and continue to govern which EU countries can adopt the euro.

2.5 EU Citizenship

For the first time, Maastricht created the concept of **citizenship of the European Union**, granted automatically to every national of a member state. This came with a set of concrete rights:

- **Freedom of movement and residence** across all member states
- **Right to vote and stand** in municipal and European Parliament elections in any member state where the citizen resides
- **Diplomatic protection** from any EU member state's embassy or consulate abroad (if the citizen's own country has no representation)
- **Right to petition** the European Parliament and apply to the European Ombudsman

This was a powerful symbolic and practical innovation. It gave the EU a **direct relationship with individual citizens**, not just with member state governments.

2.6 Enhanced Role of the European Parliament

Maastricht significantly **strengthened parliamentary democracy** at the EU level:

- Introduced the **co-decision procedure**, giving the Parliament the power to legislate jointly with the Council of Ministers in certain areas (later expanded by Amsterdam and Lisbon)
- Gave Parliament the right to **invite the Commission to submit legislative proposals**
- Granted Parliament a **vote of approval** over the appointment of the Commission as a body
- Established Parliament's role in appointing the **European Ombudsman**

2.7 Common Foreign and Security Policy (CFSP)

Maastricht replaced the informal **European Political Cooperation (EPC)** framework with a formal, treaty-based **Common Foreign and Security Policy**. Key features included:

- A framework for **common positions** and **joint actions** in foreign affairs
- The possibility of eventually developing a **common defence policy** (with reference to the Western European Union as the EU's defence arm)
- Decisions taken by **unanimity** in the Council — preserving national sovereignty on sensitive security matters

2.8 Other Notable Innovations

Beyond the headline changes, Maastricht also introduced:

- **Principle of subsidiarity:** Decisions should be taken at the lowest level of government capable of addressing them effectively. The EU should only act where member states cannot achieve the objective sufficiently on their own
- **Committee of the Regions:** A new advisory body giving local and regional authorities a voice in EU decision-making
- **Social policy provisions:** A Social Protocol (with a British opt-out) covering working conditions, worker consultation, and equal opportunities
- **New policy competences:** Education, culture, public health, consumer protection, trans-European networks, and industry were formally brought within the EU's scope

2.9 Summary and conclusions

Innovation	What It Did	Long-term Impact
Created the EU	Transformed the EEC into a political union	Foundation of today's EU
Three-pillar structure	Organized policy into supranational + intergovernmental domains	Later unified by Lisbon

EMU & euro roadmap	Set convergence criteria and three-stage path to single currency	Euro launched 1999/2002
EU citizenship	Gave citizens direct rights (movement, voting, petition)	Deepened individual connection to EU
Co-decision procedure	Parliament gained real legislative power	Now the standard EU lawmaking method
CFSP	Formal foreign & security policy framework	Evolved into today's EU foreign policy apparatus
Subsidiarity	Limited EU action to where it adds value	Core governance principle today

Conclusion

The Treaty of Maastricht was nothing less than the **birth certificate of the European Union**. It transformed a primarily economic project into a political entity with its own citizenship, a path to a shared currency, a foreign policy voice, and a more democratic parliament. Every major EU treaty since — Amsterdam, Nice, and Lisbon — has been an attempt to **refine, repair, or complete** what Maastricht started.

2.10 References

1. European Parliament, Maastricht Treaty <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/maastricht-treaty>
2. Wikipedia, Maastricht Treaty https://en.wikipedia.org/wiki/Maastricht_Treaty
3. Encyclopaedia Britannica, Maastricht Treaty | Date, Purpose, Significance, & Facts <https://www.britannica.com/event/Maastricht-Treaty>
4. CVCE (University of Luxembourg), The Maastricht Treaty of 7 February 1992 <https://www.cvce.eu/en/education/unit-content/-/unit/d5906df5-4f83-4603-85f7-0cab24b9fe1/e038b310-f139-407f-9bfb-a1b2e901fb56>
5. Wikipedia, Three Pillars of the European Union https://en.wikipedia.org/wiki/Three_pillars_of_the_European_Union
6. European External Action Service (EEAS), How Maastricht Changed Europe https://www.eeas.europa.eu/delegations/russia/how-maastricht-changed-europe_en
7. Council of the EU, The Pillars of Europe — Maastricht Brochure https://www.consilium.europa.eu/media/38778/expo_maastricht-brochure_en.pdf
8. European Parliament, The Maastricht and Amsterdam Treaties (Fact Sheet) https://www.europarl.europa.eu/ftu/pdf/en/FTU_1.1.3.pdf
9. European Commission, Convergence Criteria for Joining the Euro Area https://economy-finance.ec.europa.eu/euro/enlargement-euro-area/convergence-criteria-joining_en
10. Wikipedia, Euro Convergence Criteria https://en.wikipedia.org/wiki/Euro_convergence_criteria
11. Iowa State University / Afxentiou, Convergence, the Maastricht Criteria, and Their Benefits (PDF) <https://faculty.sites.iastate.edu/tesfatsi/archive/econ353/tesfatsion/MaastrichtConvergenceCriteria.Afxentiou.pdf>

12. Reconnect Europe, What Are My Rights as an EU Citizen? <https://reconnect-europe.eu/what-are-my-rights-as-an-eu-citizen/>

3 The necessity of the Treaty of Lisbon

Here's a comprehensive look at **why the Treaty of Lisbon (2007/2009) was necessary** after the Treaty of Maastricht (1992) — and why the intermediate treaties (Amsterdam 1997, Nice 2001) and the failed Constitutional Treaty (2005) couldn't close the gap.

The story is one of **institutional growing pains, democratic deficits, and a dramatically expanding Union**.

3.1 What Maastricht Achieved — and Where It Fell Short

The **Treaty of Maastricht (1992)** was a landmark: it created the European Union as we know it, established the **three-pillar structure** (European Communities, Common Foreign & Security Policy, Justice & Home Affairs), and laid the groundwork for **Economic and Monetary Union (EMU)** and the euro.

However, Maastricht's institutional architecture was designed for a Union of **12 member states**. It left three critical problems unresolved:

- **Enlargement readiness:** The EU was about to grow from 12 to potentially 25+ members. Maastricht's decision-making rules (unanimity in many areas, weighted voting) would become **paralyzingly slow** with that many members at the table.
- **Democratic deficit:** The European Parliament had limited co-decision powers. Citizens felt increasingly disconnected from EU governance, decisions were made by councils of ministers behind closed doors.
- **Incoherent foreign policy:** The pillar structure meant foreign policy, justice, and economic policy operated under **different legal frameworks and voting rules**, making the EU clumsy on the world stage.

3.2 The Failed Repair Attempts: Amsterdam and Nice

Two treaties tried and largely failed to fix Maastricht's structural weaknesses before Lisbon.

3.2.1 Treaty of Amsterdam (1997)

Amsterdam was *supposed* to prepare the EU institutionally for Eastern enlargement. It made some progress, expanding co-decision powers for the Parliament and incorporating the Schengen Agreement, but **punted the hardest questions** about voting weights, Commission size, and institutional reform to a future treaty.

3.2.2 Treaty of Nice (2001)

Nice tackled those "Amsterdam leftovers" but produced a result widely regarded as **inadequate and overly complex**. The re-weighting of Council votes was convoluted, and the reforms were seen as the bare minimum to allow the 2004 enlargement to proceed, not a genuine long-term solution.

"The Treaty of Nice reformed the institutional structure of the European Union to withstand eastward expansion, a task which was originally intended to have been achieved by the Treaty of Amsterdam."

The **cumulative failure** of Amsterdam and Nice to deliver deep reform created enormous pressure for a comprehensive overhaul.

3.2.3 The Constitutional Treaty Detour (2004–2005)

Recognizing that incremental treaty patches weren't working, EU leaders launched the **Convention on the Future of Europe** (2002–2003), which produced a bold **Treaty establishing a Constitution for Europe**. It would have:

- Replaced all existing treaties with a single constitutional text
- Created an EU Foreign Minister
- Established a permanent European Council President
- Simplified voting procedures

The European Parliament approved it. But in **May–June 2005**, voters in **France (54.7% No)** and the **Netherlands (61% No)** rejected it in national referendums, killing the project.

The reasons for rejection were complex, concerns about national sovereignty, fears of a "European superstate," economic anxieties, and the symbolic weight of the word "Constitution" itself.

This left the EU in a **two-year "reflection period"**, still operating under the inadequate Nice framework, now with 25 (soon 27) member states.

3.3 Why Lisbon Was the Necessary Solution

The **Treaty of Lisbon (signed 2007, entered into force 2009)** was used to repair the negative outcome of the Constitutional treaty. Essentially, by no longer calling it a EU Constitution, citizen's referenda were no longer a constitutional requirement in the problematic member states and a ratification by the nations' parliaments was sufficient. In addition, it rephrased the Constitutional Treaty as a large set of amendments while dropping its most politically "toxic" elements, mostly symbolic ones. However, there was no visible efforts to remediate the reasons for its rejection.

Notwithstanding, here's what made it introduced as fundamental changes. Note however, as will be explored later on, while the treaty defined substantial improvements, the practice did not always follow.

1. Decision-Making Efficiency

- Introduced **Qualified Majority Voting (QMV)** in over 40 new policy areas, replacing unanimity, critical for a 27-member Union to function.
- Established the **double majority system** (55% of member states representing 65% of the EU population), fairer and simpler than Nice's baroque voting weights.

2. Democratic Accountability

- Made **co-decision** (renamed "ordinary legislative procedure") the **standard** for EU lawmaking, giving the European Parliament equal power with the Council in most areas.

- Introduced the **Citizens' Initiative** allowing 1 million EU citizens to invite the Commission to propose legislation.
- Gave **national parliaments** a formal role in monitoring EU legislation (subsidiarity check).

3. Institutional Coherence

- Abolished the confusing **three-pillar structure** from Maastricht, giving the EU a **single legal personality**.
- Created the **permanent President of the European Council** (replacing the rotating 6-month presidency for summit-level leadership).
- Established the **High Representative for Foreign Affairs and Security Policy**, merging previously separate roles to give the EU a single foreign policy voice.

4. New Provisions

- For the first time, included an **explicit exit clause** (Article 50), allowing member states to legally leave the EU.
- Made the **Charter of Fundamental Rights** legally binding.
- **Strengthened the EU's capacity to act on** energy policy, climate change, and space policy.

3.4 Summary and conclusion:

Issue	Maastricht (1992)	Problem	Lisbon (2009) Solution
Decision-making	Unanimity in many areas	Gridlock with 27 members	QMV expanded to 40+ areas
Democratic legitimacy	Limited Parliament powers	"Democratic deficit"	Co-decision as standard procedure
Institutional structure	Three-pillar system	Fragmented, incoherent	Single legal personality
Foreign policy	Rotating presidency, split roles	No unified voice	Permanent President + High Representative
Enlargement capacity	Designed for 12 states	Couldn't scale	Double majority voting for 27+ states
Citizens' role	Minimal direct participation	Alienation from EU	Citizens' Initiative + national parliament role
Exit mechanism	None	No legal path to leave	Article 50 introduced

Conclusion

The Treaty of Lisbon wasn't just "another treaty" — it was the **culmination of 15 years of institutional struggle** after Maastricht. The EU had outgrown its original governance architecture, and three successive attempts (Amsterdam, Nice, the Constitutional Treaty) failed to deliver a comprehensive fix. Lisbon finally succeeded by **preserving the Constitutional Treaty's substantive reforms** while packaging them as treaty *amendments* rather than a replacement — a pragmatic compromise that avoided the political landmine of the word "Constitution."

In essence: Maastricht built the house, but Lisbon rewired it for a family that had tripled in size.

3.5 References

1. European Commission, Explaining the Treaty of Lisbon (MEMO-09-531) https://europa.eu/rapid/press-release_MEMO-09-531_en.htm
2. Wikipedia, Treaty of Lisbon https://en.wikipedia.org/wiki/Treaty_of_Lisbon
3. U.S. Congressional Research Service, The European Union's Reform Process: The Lisbon Treaty (RS21618) https://www.congress.gov/crs_external_products/RS/PDF/RS21618/RS21618.25.pdf
4. EBSCO Research Starters, Treaty of Lisbon | Law <https://www.ebsco.com/research-starters/law/treaty-lisbon>
5. Council of Europe Parliamentary Assembly, Political consequences of the Maastricht Treaty <https://pace.coe.int/files/7085/html>
6. European Parliament, Is Further Enlargement Feasible without Constitutional Changes? (2019) [https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/608872/IPOL_IDA\(2019\)608872_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2019/608872/IPOL_IDA(2019)608872_EN.pdf)
7. Journal of Economic Integration, Where are the Limits to the Enlargement of the European Union? https://www.e-jei.org/upload/JEI_14_3_467_496_117.pdf
8. Wikipedia, Enlargement of the European Union https://en.wikipedia.org/wiki/Enlargement_of_the_European_Union
9. Wikipedia, Treaty of Nice https://en.wikipedia.org/wiki/Treaty_of_Nice
10. Ankara University, A Brief Overview on EU Institutional Change (Şavaşan) <https://aacd.ankara.edu.tr/wp-content/uploads/sites/462/2018/02/C11S1Savaslan.pdf>
11. Oxford Research Encyclopedia of Politics, Amsterdam Treaty <https://oxfordre.com/politics/display/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-1094>
12. Columbia University, After the Vote: Why the Netherlands Accepted the Lisbon Treaty <https://europe.columbia.edu/news/after-vote-why-netherlands-accepted-lisbon-treaty>
13. European Parliament, Draft Treaty Establishing a Constitution for Europe (not ratified) <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/draft-treaty-establishing-a-constitution-for-europe>
14. Swiss Federal Department of Foreign Affairs, The Treaty of Lisbon <https://www.europa.eda.admin.ch/en/the-treaty-of-lisbon>

In short (Monica)

Found 9 search sources

The Treaty of Lisbon was deemed necessary to address several shortcomings and challenges that emerged from the Treaty of Maastricht, which was foundational for the European Union (EU) but imposed limitations on its governance and effectiveness.

Enhancing Decision-Making Processes

One of the primary reasons for the Lisbon Treaty was to improve the efficiency of the EU's decision-making processes. The Maastricht Treaty established a complex system of voting and decision procedures that, over time, became inadequate for an expanding EU with more member states. The Lisbon Treaty sought to simplify and streamline these processes, allowing for more effective governance and quicker responses to emerging issues within the EU. By introducing a double majority voting system for the Council of the EU, it improved legislative efficiency and

integrated the interests of smaller member states while still protecting the influence of larger ones .

Democratic Accountability and Transparency

The Lisbon Treaty also aimed to enhance democratic legitimacy and accountability within the EU's institutions. While the Maastricht Treaty set the groundwork for a more democratic governance structure, criticisms about the distance between EU decision-makers and European citizens persisted. The Lisbon Treaty expanded the powers of the European Parliament, allowing it to co-legislate on an equal footing with the Council of the EU in many areas, thus raising the level of democratic scrutiny . It also introduced the Citizens' Initiative, empowering citizens to directly influence EU legislative processes, thereby fostering greater engagement .

Institutional Framework Reforms

Another critical need for reform was the adaptation of the EU's institutional framework in light of its enlargement. The accession of new member states created significant complexities within the governance structure. The Lisbon Treaty created new positions such as the president of the European Council and the high representative for foreign affairs, which were designed to provide clearer leadership and coordination in EU affairs . These roles were essential for enhancing the EU's ability to operate cohesively on the global stage, especially in foreign policy and security matters, areas where unity was increasingly necessary .

Addressing Legal and Procedural Gaps

The Lisbon Treaty also addressed gaps in the legal and procedural frameworks established by the Maastricht Treaty. It explicitly provided a legal procedure for a member state to withdraw from the EU, which was not previously covered. This provision acknowledged the political landscape's changing nature and the necessity of allowing member states the freedom to choose their paths in alignment with the evolving dynamics of the EU .

In conclusion, the Treaty of Lisbon was essential for addressing the inadequacies of the Maastricht Treaty, enhancing the EU's functionality, improving democratic legitimacy, reforming its governance framework, and providing clarity in legal procedures. These measures were necessary to ensure that the EU could effectively meet the challenges of a rapidly changing political, economic, and social environment.

Short summary: (Claude)

The Treaty of Lisbon (2007/2009) was necessary after the Treaty of Maastricht (1992) due to three key shortcomings of Maastricht: it inadequately prepared for EU enlargement, contributed to a democratic deficit, and created an incoherent foreign policy framework. The Amsterdam (1997) and Nice (2001) Treaties attempted to address these issues but failed to provide effective solutions.

The failed Constitutional Treaty (2004-2005) aimed for comprehensive reform but was rejected by voters in France and the Netherlands. The Treaty of Lisbon addressed these challenges by enhancing decision-making efficiency through Qualified Majority Voting (QMV), increasing democratic accountability by empowering the European Parliament and introducing the Citizens' Initiative, and creating institutional coherence by abolishing the three-pillar structure.

Moreover, it established a clear exit mechanism (Article 50), among other provisions. Overall, the Treaty of Lisbon effectively rewired the EU's governance structure to accommodate its expanded membership, responding to the institutional struggles that arose since Maastricht.

References:

- European Commission, Wikipedia, U.S. Congressional Research Service, others.

4 A comprehensive summary of the Treaty of Lisbon

4.1 Recap: What Is the Treaty of Lisbon?

The **Treaty of Lisbon** (formally the "Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community") was signed on **13 December 2007** and entered into force on **1 December 2009**.

It was designed to make the EU more **democratic, efficient, and capable of acting on the world stage** — especially after the 2004/2007 enlargements that brought the Union to 27 member states.

The treaty emerged after the **failed Constitutional Treaty (2005)**, which was rejected by French and Dutch voters. Lisbon preserved most of the Constitutional Treaty's reforms but packaged them as *amendments* to existing treaties rather than a replacement "Constitution."

4.2 Main Objectives

The Treaty of Lisbon had **four core goals**:

1. **More democratic EU** — Strengthen the role of citizens, national parliaments, and the European Parliament
2. **More efficient EU** — Streamline decision-making to avoid gridlock in a 27+ member Union
3. **More transparent EU** — Make EU institutions and processes more understandable and accountable
4. **EU as a global actor** — Give the Union a stronger, more coherent voice in international affairs

4.3 Key Innovations & Changes

4.3.1 Simplified Decision-Making

Qualified Majority Voting (QMV) expanded:

- QMV (rather than unanimity) became the rule in **over 40 new policy areas**, including energy, immigration, judicial cooperation, and structural funds
- Introduced the **"double majority" system** (effective from 2014, with transition until 2017):
 - Requires **55% of member states** (at least 15 countries)
 - Representing **65% of the EU's population**

This replaced the complex weighted voting system from the Treaty of Nice and made decision-making fairer and faster.

4.3.2 Strengthened Democracy

European Parliament gains equal power:

- The **co-decision procedure** (renamed "ordinary legislative procedure") became the **standard** for EU lawmaking — Parliament and Council now legislate as equals in most policy areas
- Parliament gained power over the **entire EU budget** (previously shared with Council)

- Parliament must **elect** the Commission President (based on European election results)

Citizens' Initiative:

- For the first time, **1 million EU citizens** from multiple member states can invite the Commission to propose legislation on a specific topic

National Parliaments:

- Given a formal role to monitor EU legislation and ensure **subsidiarity** (that the EU only acts where it can be more effective than national governments)
- Can issue "**yellow / orange cards**" to block proposed EU laws that violate subsidiarity

4.3.3 Institutional Reforms

Permanent President of the European Council:

- Replaced the rotating 6-month presidency with a **permanent President** (2.5-year term, renewable once)
- Provides continuity and a recognizable face for EU leadership at summit level

High Representative for Foreign Affairs and Security Policy:

- Merged the roles of the Council's High Representative and the Commission's External Relations Commissioner
- Chairs the Foreign Affairs Council and serves as Vice-President of the Commission
- Gives the EU a **single voice** in foreign policy

Abolition of the Three-Pillar Structure:

- Maastricht's confusing pillar system (supranational vs. intergovernmental) was eliminated
- The EU gained a **single legal personality**, allowing it to sign international treaties and join international organizations

4.3.4 New Rights & Values

Charter of Fundamental Rights:

- Made **legally binding** for the first time (though the UK and Poland negotiated opt-outs)
- Covers civil, political, economic, and social rights — from human dignity to workers' rights to data protection
- Values explicitly stated: Article 2 lists the EU's founding values: **human dignity, freedom, democracy, equality, the rule of law, and respect for human rights**

Article 50 — Exit Clause:

- For the first time, established a **formal legal procedure** for a member state to leave the EU
- Requires a two-year negotiation period (extendable by unanimous agreement)
- This article was famously invoked by the UK in 2017 for Brexit

4.3.5 New & Expanded Policy Areas

Lisbon gave the EU new or strengthened competences in:

- **Energy policy** (security of supply, energy efficiency, renewable energy)
- **Climate change** (explicit legal basis for EU climate action)
- **Space policy**
- **Tourism**
- **Civil protection and humanitarian aid**
- **Sport**

- **Public health** (enhanced coordination)

4.3.6 Transparency & Accountability

- **Council meetings** must be held in public when legislating (ending the tradition of secret Council negotiations)
- Citizens gained the **right of access** to documents from all EU institutions
- The European Ombudsman's role was strengthened

4.4 Summary and conclusion

Aspect	Before Lisbon	After Lisbon
Decision-making	Unanimity in many areas; complex weighted voting	QMV in 40+ new areas; double majority (55%/65%)
Parliament's role	Co-decision in limited areas	Co-decision as standard; full budget power
EU Presidency	Rotating every 6 months	Permanent President (2.5 years)
Foreign policy	Split roles, no single voice	High Representative + single legal personality
Pillar structure	Three separate pillars	Unified legal framework
Fundamental Rights	Charter not binding	Charter legally binding
Citizens' role	Indirect (via elections only)	Citizens' Initiative + national parliament checks
Exit mechanism	None	Article 50 procedure

Impact & Legacy

The Treaty of Lisbon is the **current constitutional framework** of the EU — no major treaty has amended it since 2009. The Lisbon Treaty served as a foundational document that restructured the EU's legal framework, enhancing the roles of various treaties and documents. The original TEU (Treaty on European Union) and TFEU (Treaty on the Functioning of the European Union) were significantly amended, while the Charter of Fundamental Rights gained legal standing.

Its key achievements:

1. **Made the EU work at scale:** Decision-making rules that function with 27+ members
2. **Deepened democracy:** Parliament as co-legislator, citizens' initiative, national parliament oversight
3. **Unified the EU legally:** Single legal personality, end of pillar confusion
4. **Prepared for global challenges** — Climate, energy, and foreign policy competences

5. **Enabled Brexit**: Article 50 provided the legal pathway (for better or worse)

However, it also left some issues unresolved, particularly around **fiscal union**, **migration policy**, and **further enlargement**, which continue to challenge the EU today. It also did not address the underlying causes that led to the rejection of the Constitutional Treaty, especially as the treaty's new democratic improvements are often not reflected in the political practice.

Conclusion

The Treaty of Lisbon was the EU's "**second founding**" after Maastricht. Where Maastricht created the EU and set its ambitions, Lisbon gave it the **institutional machinery** to function as a democratic, efficient, and globally relevant union of 27+ diverse nations. It's the treaty that governs the EU you see today — from how laws are made, to how foreign policy is conducted, to how citizens can directly participate in EU governance.

4.5 References

1. European Parliament, Treaty of Lisbon (Fact Sheet) <https://www.europarl.europa.eu/factsheets/en/sheet/5/treaty-of-lisbon>
2. Wikipedia, Treaty of Lisbon https://en.wikipedia.org/wiki/Treaty_of_Lisbon
3. European Commission, The Treaty of Lisbon: A New Era for the European Union https://commission.europa.eu/strategy-and-policy/policies/treaty-lisbon_en
4. European Parliament, Draft Treaty Establishing a Constitution for Europe (not ratified) <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/draft-treaty-establishing-a-constitution-for-europe>
5. EUR-Lex, Treaty of Lisbon (Official Summary) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:ai0033>
6. Council of the European Union, The Treaty of Lisbon: A Brief Guide <https://www.consilium.europa.eu/media/20967/lisbon-treaty-10-things-you-need-to-know.pdf>

5 Major Criticisms & Structural Failings

5.1 The "Democratic Deficit" Persists

Despite Lisbon's promise to make the EU more democratic, critics argue the **democratic deficit remains profound**:

The Commission Problem:

- The **European Commission** (the EU's executive) is still not directly elected by citizens
- Commissioners are appointed by national governments, not chosen through democratic competition
- The Commission retains **exclusive right of legislative initiative** — meaning Parliament and Council can only react to Commission proposals, not initiate their own laws

Complexity & Distance:

- EU decision-making remains **opaque and complex** for ordinary citizens
- The "**ordinary legislative procedure**" involves multiple readings, trilogue negotiations behind closed doors, and technical compromises that are difficult to follow
- Citizens still feel **disconnected** from Brussels — turnout in European Parliament elections remains low (around 50% in 2019, compared to 60-80% in national elections)

Quote from academic analysis:

"The Lisbon Treaty has not brought a revolutionary reform. The democratic deficit, though slightly improved, still has a long way to go..."

5.2 The European Citizens' Initiative (ECI) Has Been a Disappointment

The ECI was hailed as a breakthrough for **participatory democracy**, but in practice it has been **largely ineffective**:

Barriers to Success:

- **Extremely high threshold**: Requires 1 million signatures from at least 7 member states within 12 months
- **Technical obstacles**: Complex registration procedures, legal admissibility requirements, and bureaucratic hurdles discourage organizers
- **No guarantee of action**: Even successful ECIs only "invite" the Commission to propose legislation — the Commission can (and often does) simply refuse

Track Record:

- Between 2012-2020, only **6 out of 76 registered initiatives** successfully collected 1 million signatures
- Of those 6, the Commission **rejected or ignored most**, offering only symbolic responses
- Example: The "Right2Water" initiative (2013) gathered 1.9 million signatures but resulted in minimal concrete EU legislation

Academic assessment:

"The Citizens' Initiative fails to create sufficient public attention and has not significantly enhanced participatory democracy in the EU."

5.3 Common Foreign and Security Policy (CFSP) Remains Weak

Despite creating the **High Representative** role and giving the EU a single legal personality, foreign policy coordination remains **fragmented and ineffective**:

Unanimity Requirement:

- CFSP decisions still require **unanimity** among all 27 member states
- A single country can **veto** any foreign policy position, paralyzing EU action
- This has led to repeated failures to present a unified stance on major crises

Real-World Failures:

- **Libya (2011)**: EU member states split — France and UK intervened militarily, Germany abstained at the UN, others opposed
- **Syria crisis (2011-present)**: No common EU position; member states pursued contradictory policies
- **Ukraine/Russia (2014-2022)**: Divisions over sanctions and energy dependence weakened EU leverage
- **Israel-Palestine**: Repeated inability to agree on common positions or sanctions
- **China policy**: Deep splits between "hawkish" (Eastern Europe, Nordic states) and "accommodationist" (Southern Europe) approaches

Expert assessment:

"National interests continue to undermine the Lisbon Treaty's aspirations of enabling Europe to punch its collective weight on the global stage."

5.4 Eurozone Crisis Exposed Fiscal Union Gap

The Treaty of Lisbon entered force in **December 2009** — just as the **eurozone crisis** was beginning. The crisis brutally exposed Lisbon's **failure to address fiscal integration**:

What Lisbon Didn't Fix:

- **No fiscal union**: Member states share a currency (euro) but retain separate national budgets, tax systems, and debt
- **No banking union**: (at the time) No common deposit insurance or bank resolution mechanism
- **No transfer mechanism**: No EU-level system to help struggling economies (unlike US federal transfers between states)

Consequences:

- Greece, Ireland, Portugal, Spain, and Cyprus required **bailouts** (2010-2013)
- The EU had to create **emergency mechanisms outside the treaty framework**: European Financial Stability Facility (EFSF), European Stability Mechanism (ESM)

- Deep **political resentment** — Northern European taxpayers felt exploited; Southern Europeans felt humiliated by austerity conditions

Academic verdict:

"While the Treaty did not address the concerns of negative fallout from one Eurozone member state to another, it is asserted that it also did not provide the institutional framework to prevent or manage such crises."

5.5 National Parliaments' Role Is Largely Symbolic

Lisbon gave **national parliaments** new powers to monitor subsidiarity (the "yellow card" system), but this has proven **ineffective in practice**:

The Yellow Card System:

- If **one-third of national parliaments** object to a proposed EU law on subsidiarity grounds, the Commission must review it
- If a **simple majority** objects (and the Commission proceeds anyway), the European Parliament or Council can block it

Why It Doesn't Work:

- **Extremely rare use:** Only **3 yellow cards** issued between 2010-2020 (out of thousands of EU proposals)
- **Coordination problems:** National parliaments have only 8 weeks to review proposals and coordinate across countries
- **No real teeth:** Even when yellow cards are issued, the Commission usually just re-justifies the proposal and proceeds anyway
- **Political will lacking:** National parliaments are often too busy with domestic issues to scrutinize EU legislation systematically

5.6 Qualified Majority Voting (QMV) Expansion Has Been Blocked

While Lisbon expanded QMV to new areas, **member states have found ways to preserve unanimity** in practice:

Sensitive Areas Still Require Unanimity:

- **Taxation** (including corporate tax harmonization)
- **Social security**
- **Foreign policy** (as discussed above)
- **Defence**
- **EU budget** (multiannual financial framework)
- **Treaty amendments**
- Admission of **new member states**

"Emergency Brake" Mechanisms:

- Even in areas nominally under QMV, member states can invoke **emergency brakes** on grounds of "vital national interest," forcing issues back to unanimity

Result:

- Major reforms (tax harmonization, migration quotas, energy policy) remain **blocked by small minorities**
- The EU struggles to respond quickly to crises (COVID-19, migration, energy security)

5.7 Transparency Promises Unfulfilled

Lisbon promised **greater transparency**, but significant opacity remains:

Persistent Problems:

- **Trilogue negotiations:** Most EU laws are finalized in secret "trilogue" meetings between Parliament, Council, and Commission representatives, no public minutes, no live streaming
- **Council voting records:** While Council legislative sessions are now public, many decisions are still made in preparatory bodies (COREPER, working groups) that operate behind closed doors
- **Document access:** Citizens have a theoretical right to access EU documents, but requests are often denied on vague grounds of "institutional interest" or "ongoing decision-making"

5.8 Gaps Between Treaty and Practice

5.8.1 Gap 1: The "Spitzenkandidaten" Process Collapsed

What the treaty implied:

- Article 17(7) TEU states the European Council shall propose a Commission President "taking into account" European Parliament election results
- This was interpreted as requiring the **lead candidate (Spitzenkandidat)** of the winning party to become Commission President

What happened:

- **2014:** Process worked — Jean-Claude Juncker (EPP lead candidate) became President
- **2019:** Process **collapsed** — Despite EPP winning again, European Council leaders **rejected** lead candidate Manfred Weber and instead chose Ursula von der Leyen (who wasn't a candidate)
- This revealed that **national leaders, not voters**, still control the Commission presidency

5.8.2 Gap 2: Charter of Fundamental Rights — Uneven Application

What the treaty says:

- The Charter of Fundamental Rights is legally binding across the EU

What happens in practice:

- **UK and Poland negotiated opt-outs** (Protocol 30), claiming the Charter doesn't create new rights in their jurisdictions
- **Hungary and Poland** have systematically violated Charter principles (judicial independence, media freedom, LGBTQ+ rights) with limited EU consequences
- **Article 7 procedure** (sanctions for rule of law violations) requires unanimity to impose penalties — meaning Hungary and Poland protect each other by mutual veto

5.8.3 Gap 3: Permanent European Council President — Limited Impact

What was expected:

- A permanent President would provide **strategic leadership** and make the EU a more coherent actor

What happens:

- The role has been largely ceremonial and administrative
- Presidents (Herman Van Rompuy 2009-2014, Donald Tusk 2014-2019, Charles Michel 2019-2024) chair summits but have **no executive power**
- Real power remains with the **Commission President** and powerful national leaders (especially Germany and France)
- The position has not significantly raised the EU's global profile

5.8.4 Gap 4: High Representative — Still No Single EU Voice

What was intended:

- A single High Representative would give the EU **one voice in foreign policy**

What actually happens:

- The High Representative is often **contradicted or ignored** by major member states
- France, Germany, and others continue to pursue **independent foreign policies** (e.g., Macron's outreach to Russia, Germany's Nord Stream 2 pipeline)
- The High Representative has **no control over member states' military forces** or bilateral diplomacy
- Result: The EU still speaks with **28 voices** (27 member states + the High Representative)

5.9 Summary and conclusion: Promises vs. Reality

Lisbon Promise	Reality/Gap	Impact
More democratic	Democratic deficit persists; Commission still unelected; low voter engagement	Citizens remain disconnected from EU
Citizens' Initiative	High barriers; Commission ignores most; only 6 successful in 8 years	Participatory democracy largely failed
Common foreign policy	Unanimity requirement; member states pursue national interests; repeated failures	EU weak on global stage
Economic governance	No fiscal union; eurozone crisis exposed gaps; emergency mechanisms created outside treaty	Structural vulnerability remains
National parliament oversight	Yellow card system rarely used; no real enforcement power	Symbolic rather than substantive
More QMV	Sensitive areas still unanimous; emergency brakes preserve vetoes	Decision-making still slow
Transparency	Trilogues secret; document access restricted; Council prep bodies opaque	Opacity persists
Spitzenkandidaten	Process collapsed in 2019; national leaders retained control	Voters don't choose Commission President

Charter of Fundamental Rights	Opt-outs; rule of law violations in Hungary/Poland; Article 7 blocked	Uneven enforcement
Permanent EU President	Largely ceremonial; limited strategic impact	Failed to enhance EU leadership
High Representative	Contradicted by member states; no control over national foreign policies	EU still lacks single voice

Overall Assessment

The Treaty of Lisbon achieved **incremental improvements** but fell far short of its transformative ambitions in practice:

- **Modest successes:** Streamlined some decision-making, strengthened Parliament's role, created legal basis for climate action
- **Major failures:** Democratic deficit persists, foreign policy remains weak, eurozone crisis exposed fiscal gaps, citizens' initiative ineffective, transparency promises unfulfilled
- **Theory-practice gaps:** Spitzenkandidaten collapsed, Charter enforcement uneven, High Representative sidelined, national parliaments marginalized

The fundamental problem:

Lisbon tried to make the EU more efficient and democratic **without resolving the core tension** between supranational integration and national sovereignty. Member states want EU action when it serves their interests but resist deeper integration that would constrain their autonomy.

As one scholar concluded:

"Lisbon was a difficult treaty to implement and is essentially the result of the failed process of establishing an EU constitution. It represents a compromise that satisfied no one fully and left many structural problems unresolved."

5.10 References

1. E-International Relations, The Treaty of Lisbon: An Analysis <https://www.e-ir.info/2011/02/22/the-treaty-of-lisbon-an-analysis/>
2. Wikipedia, Treaty of Lisbon https://en.wikipedia.org/wiki/Treaty_of_Lisbon
3. European Parliament Research Service, Implementing the Lisbon Treaty (PDF Study) [https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519225/IPOL_STU\(2015\)519225_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519225/IPOL_STU(2015)519225_EN.pdf)
4. Chatham House, Implementing Lisbon: Narrowing the EU's 'Democratic Deficit'? (PDF) https://d1xp398qalq39s.cloudfront.net/content/PDF/2010/Implementing_Lisbon_-_narrowing_the_EU_democratic_deficit.pdf
5. European Parliament Research Service, Implementing the Lisbon Treaty (Full Study) [https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519225/IPOL_STU\(2015\)519225_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519225/IPOL_STU(2015)519225_EN.pdf)
6. Estonian Think Tank, Revisiting the Lisbon Treaty Ten Years After Its Ratification <https://esthinktank.com/2020/02/14/revisiting-the-lisbon-treaty-ten-years-after-its-ratification/>
7. ECAS, A Solution to the Democratic Deficit? Successes and Failures of EU Citizen Consultations (PDF) <https://ecas.issuelab.org/resources/30527/30527.pdf>

8. College of Europe, Participatory Democracy in the EU: Obstinate or Obsolete? (PDF) https://www.coleurope.eu/sites/default/files/research-paper/bouza_cepob_9-16_0.pdf
9. European Ombudsman, Building Trust in Times of Crisis (Speech on ECI failures) <https://www.ombudsman.europa.eu/en/speech/en/11664>
10. European Commission, Explaining the Treaty of Lisbon https://europa.eu/rapid/press-release_MEMO-09-531_en.htm
11. Council on Foreign Relations, European Foreign Policy and the Euro Crisis <https://www.cfr.org/backgrounders/european-foreign-policy-and-euro-crisis>
12. Wikipedia, Euro Area Crisis https://en.wikipedia.org/wiki/Euro_area_crisis
13. Wikipedia, Common Foreign and Security Policy https://en.wikipedia.org/wiki/Common_Foreign_and_Security_Policy
14. Estonian Think Tank, Foreign Policy: A Challenge for European Governance? <https://esthinktank.com/2024/10/30/foreign-policy-a-challenge-for-european-governance/>
15. University of Pennsylvania, The Failure of the Lisbon Treaty to Mitigate the Eurozone Crisis (PDF) <https://repository.upenn.edu/bitstreams/c7cdb41b-10f1-46e8-a7d8-311beee87e85/download>
16. European Parliament, Improving Functioning of the EU: Foreign Affairs (CFSP Briefing, PDF) <https://www.europarl.europa.eu/cmsdata/92843/AFCO%20briefing%20Lisbon%20Treaty%20CFSP.PDF>
17. SWP Berlin, Taming National Interests within the CFSP <https://www.swp-berlin.org/10.18449/2024C19/>

6 Claim1. Lisbon Treaty is an "Architecture of Overreach"

6.1 Subsidiarity Violations (Article 5 TEU)

The Principle: Article 5 TEU establishes that "in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States". This is the core subsidiarity principle.

Evidence of Violations/Tensions:

- **Criminal Law Competence Expansion:** The Lisbon Treaty significantly expanded EU competence into criminal law, an area traditionally reserved for member states. Research shows this "has evolved through an illegitimate process" according to critics, with the EU extending criminal law competence to areas like environmental crimes and foreign policy sanctions. This represents a clear example where the EU acted in areas that could arguably be handled at national level, potentially violating subsidiarity.
- **Competence Creep Mechanisms:** Academic analysis identifies that while the Lisbon Treaty attempted to address "competence creep" through Article 352 TFEU (successor to Article 308 EC), the treaty simultaneously expanded shared competences, creating ongoing tensions with subsidiarity. The distinction between exclusive, shared, and supporting competences introduced by Lisbon has not prevented EU expansion into traditionally national domains.
- **Weak Enforcement:** Despite the Lisbon Treaty introducing the "Early Warning Mechanism" allowing national parliaments to object to EU legislation on subsidiarity grounds, research shows this mechanism has been largely ineffective, partly because it is hard to meet the timing requirements, but partly by lack of interest of national politicians. The European Parliament's own analysis acknowledges that "criticism of a subsidiarity breach" often lacks proper analysis, and the monitoring mechanisms remain weak.
- **Structural Problem:** The fundamental issue is that Article 5 TEU contains an inherent contradiction: it proclaims subsidiarity while simultaneously expanding EU competences. The treaty lists exclusive competences but leaves shared competences broadly defined, allowing the EU to interpret its own powers expansively.

6.2 Assessment:

Verified with Nuance: The claim that Lisbon violates subsidiarity has substantial academic and institutional support. The treaty formally strengthens subsidiarity language while simultaneously expanding EU competences, creating what critics call "competence creep." However, defenders argue the treaty improved transparency by explicitly listing competences and creating monitoring mechanisms, even if these remain imperfect.

6.3 Key Evidence:

- Criminal law expansion into traditionally national areas,
- Weak enforcement of subsidiarity monitoring,

- Broad interpretation of shared competences,
- The gap between subsidiarity rhetoric and actual practice

6.4 References:

1. European Parliament Research Service (2025). "Subsidiarity: Mechanisms for monitoring compliance."
[https://www.europarl.europa.eu/RegData/etudes/IDAN/2025/775868/EPRS_IDA\(2025\)775868_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2025/775868/EPRS_IDA(2025)775868_EN.pdf)
2. "5 Competence, Categories, and Control." Riga Graduate School of Law.
<https://www.rgsl.edu.lv/data/pdf-files/5.-competence-categories-and-control.pdf>
3. Swedish Institute for European Policy Studies (2015). "Union regulatory criminal law competence." https://sieps.se/media/4yuhhcf5/union-regulatory-criminal-law-competence-2015_4.pdf
4. "Is there truly a competence 'competition' in shared matters?" Eurojus.
<https://rivista.eurojus.it/wp-content/uploads/pdf/Is-there-a-truly-competence-competition-in-shared-matters.pdf>

7 Claim 2. EU Constitution Rejection and "Forced" second referenda

7.1 The Historical Record

On May 29, 2005, French voters rejected the Treaty establishing a Constitution for Europe with 54.7% voting "No". Just three days later, on June 1, 2005, Dutch voters delivered an even stronger rejection with 61.5% voting "No". These rejections effectively killed the Constitutional Treaty, as it required unanimous ratification by all member states.

Key Reasons for Rejection:

The rejections were driven by multiple factors:

- Perceived democratic deficit and lack of citizen involvement in the treaty's creation
- Economic concerns, particularly about unemployment and the perceived threat of the "Polish plumber" (fears about labour competition) in France
- Concerns about loss of national sovereignty,
- The complexity and length of the document (448 articles) that citizens found difficult to understand
- Feeling that the treaty was imposed from above without adequate consultation

7.2 The "Forced Upon Citizens" Evidence:

1. Ireland's Second Referendum (2008-2009):

This is the strongest evidence for the "forced upon citizens" claim:

- **First referendum (June 2008):** Irish voters rejected the Lisbon Treaty with 53.4% voting "No"
- **Second referendum (October 2009):** Ireland was asked to vote again on essentially the same treaty, this time passing with 67.1% voting "Yes",
- **The Controversy:** Ireland was the only EU member state constitutionally required to hold a referendum on the Lisbon Treaty. After their rejection, instead of abandoning the treaty, EU leaders negotiated minor concessions (legal guarantees on Irish concerns about neutrality, taxation, and abortion) and asked Ireland to vote again. Critics argued this represented a "**keep voting until you get it right**" approach.

2. Bypassing Referendums After 2005:

After the French and Dutch rejections of the Constitution, EU leaders deliberately chose a different strategy:

- **Repackaged the Constitution as the "Lisbon Treaty"** with the same substantive content but presented as amendments rather than a constitutional document
- **Avoided referendums** in most countries: Only Ireland held a referendum due to constitutional requirements. Other countries that had promised referendums (UK, France, Netherlands, Denmark) ratified through parliamentary votes instead.
- **UK example:** Despite Labour's 2005 manifesto promise of a referendum on the EU Constitution, the government claimed the Lisbon Treaty was "*sufficiently different*" and ratified it through Parliament only.

7.3 Academic Analysis:

Legal scholars have extensively analysed this "second referendum phenomenon." Research shows:

- The practice of holding repeat referendums "exacerbates the democratic deficit" by undermining the legitimacy of the initial vote
- The strategy represented a deliberate attempt to circumvent popular opposition while maintaining the appearance of democratic legitimacy
- The Irish case became a precedent that "if at first you don't succeed, hold another referendum"

7.4 Assessment:

VERIFIED with Strong Evidence: The claim that the EU Constitution/Lisbon Treaty was "forced upon citizens" is substantially supported by:

- Direct evidence: Ireland forced to vote twice on essentially the same treaty,
- Circumvention: Repackaging the rejected Constitution as the Lisbon Treaty to avoid new referendums,
- Broken promises: Multiple countries abandoned referendum promises after 2005 rejections
- Pattern of behaviour: EU institutions proceeding despite clear popular rejections in France and Netherlands
- Counterargument: Defenders argue that
 - Parliamentary ratification is legitimate in representative democracies,
 - Ireland received genuine concessions before the second vote, and
 - The Lisbon Treaty did differ in form from the Constitution.

However, these defences don't address the perception and the reality of democratic deficit.

7.5 References:

1. Wikipedia. "2005 French European Constitution referendum."
https://en.wikipedia.org/wiki/2005_French_European_Constitution_referendum
2. Council on Foreign Relations (2005). "The French & Dutch Referendums."
<https://www.cfr.org/backgrounders/european-union-french-dutch-referendums>
3. The Federalist (2015). "France and Netherlands' Rejection of this Europe."
<https://www.thefederalist.eu/site/index.php/en/editorials/1842-france-and-netherlands-rejection-of-this-europe>
4. Institut Delors (2005). "The French 'no' vote on 29 May 2005."
<https://institutdelors.eu/content/uploads/2025/04/etud44-en-3.pdf>
5. Wikipedia. "Twenty-eighth Amendment of the Constitution of Ireland."
https://en.wikipedia.org/wiki/Twenty-eighth_Amendment_of_the_Constitution_of_Ireland
6. Eurofound (2009). "Second time around Irish vote yes for Lisbon."
<https://www.eurofound.europa.eu/en/publications/all/second-time-around-irish-vote-yes-lisbon>

7. Fordham International Law Journal (2010). "Analyzing the Second Referendum Phenomenon in EU Treaty Ratification."
<https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2210&context=ilj>
8. UK Parliament Hansard (2008). "European Union (Amendment) Bill."
[https://hansard.parliament.uk/Lords/2008-06-18/debates/080618112000002/EuropeanUnion\(Amendment\)Bill](https://hansard.parliament.uk/Lords/2008-06-18/debates/080618112000002/EuropeanUnion(Amendment)Bill)

8 Claim 3. The Lisbon Treaty was deliberately obfuscated

8.1 The Format and Length:

The Lisbon Treaty was structured as an **amending treaty** rather than a standalone constitutional document. This meant it consisted of hundreds of amendments to two existing treaties: the Treaty on European Union (TEU) and the Treaty establishing the European Community (renamed Treaty on the Functioning of the European Union - TFEU).

The treaty text itself runs to approximately **271-300 pages** depending on the version, consisting almost entirely of amendments written in the format: "*Article X shall be replaced by...*" or "*The following article shall be inserted...*".

As an example, the Dutch version counts about 1106 amendments that change or insert the text in existing treaties, distributed over 283 pages. The count is similar in other language versions. Labeling such a text as a treaty that is meant to function as a founding constitution is intellectually not coherent with what a constitution is meant to be. In addition, how can one expect members of the national parlements (or even the citizens in cases where a referendum was used) to vote and agree on it in full conscience? It would have been more honest to reuse the original proposed text of the proposed EU Constitution treaty with the few cosmetic changes that were applied.

8.2 Evidence of Deliberate Obfuscation:

1. Valéry Giscard d'Estaing's Admission:

The most damning evidence comes from **Valéry Giscard d'Estaing**, the architect of the original EU Constitution, who explicitly stated that the Lisbon Treaty was **deliberately made complex to avoid referendums**:

- In 2007, Giscard stated: "*The Lisbon treaty represents a way for the EU institutions to take the lead after the 'interference' of the members of the convention*"
- He admitted the treaty was designed to be **unreadable** to bypass popular votes that had rejected the Constitution
- Giscard acknowledged that while the substance remained the same as the Constitution, the format was changed to make it **less accessible to citizens**

2. Academic Analysis:

Legal scholars have extensively documented the obfuscation:

- Academic research states: "*The text was made deliberately obscure in order to hide its true meaning and origins so as to smuggle the Constitutional Treaty through*"

- The amending treaty format meant "**300 pages of amendments cannot be read, unless they are compared line-by-line with the existing treaties**", making it virtually impossible for ordinary citizens to understand or even assess its consequences
- One analysis noted the treaty revision procedure became "very long-drawn" and "complex" specifically after the Constitution's rejection

3. Parliamentary Testimony:

During UK Parliamentary debates on the Lisbon Treaty, multiple members acknowledged the complexity issue:

- MPs noted that while the word "constitution" was dropped, the **substance remained nearly identical** to the rejected Constitution
- The format made it impossible for citizens to read without **constant cross-referencing** to existing treaty texts
- This complexity was contrasted with the original Constitution, which despite being 448 articles, was at least presented as a **single, readable document**

4. Comparison: Constitution vs. Lisbon Treaty

EU Constitution (2004):

- **Single consolidated text** that could be read from start to finish
- **448 articles** clearly numbered and organized
- **Transparent structure** with clear sections on institutions, competences, and policies
- **Accessible to informed citizens** who could read and understand it directly

Lisbon Treaty (2007):

- **Amending treaty format**, not readable on its own
- **271-300 pages** of amendments scattered across two existing treaties
- **Required constant cross-referencing**, amendments like "In Article 10, paragraph 2, point (c) shall be replaced by..."
- **Virtually impossible for citizens to comprehend** without legal expertise and side-by-side comparison

The Strategic Purpose:

The evidence suggests the obfuscation served specific political goals:

1. **Avoid the word "Constitution"** to claim it was different from what voters rejected,
2. **Make the text unreadable** to discourage public engagement and demands for referendums
3. **Maintain plausible deniability** - governments could claim it was "just amendments" rather than a constitutional document
4. **Enable parliamentary ratification** without public scrutiny, since MPs themselves struggled to understand the full implications. The question is also how many have really read the text before voting on it.

8.3 Assessment:

VERIFIED with Strong Evidence: The claim that the Lisbon Treaty was deliberately obfuscated is supported by:

1. **Direct admission** from the Constitution's architect (Giscard d'Estaing) that complexity was intentional
2. **Academic consensus** that the amending format made the treaty unreadable,
3. **Parliamentary acknowledgment** of the complexity problem during ratification debates

4. **Structural evidence:** the 300-page amending format requiring constant cross-referencing,
5. **Strategic timing:** format changed specifically after Constitution rejection to avoid referendums

Counterargument:

Defenders argue that amending treaties are standard in international law and that consolidated versions were made available afterwards. The latter is a weak argument as the ratification cannot be undone. The counterargument doesn't address the deliberate choice to use this format specifically to avoid public scrutiny after the Constitution's rejection.

8.4 References:

1. European Parliament (2022). "How the EU Treaties are modified." [https://www.europarl.europa.eu/cmsdata/281671/How%20the%20EU%20Treaties%20are%20modified%20EPRS_BRI\(2022\)733615_EN.pdf](https://www.europarl.europa.eu/cmsdata/281671/How%20the%20EU%20Treaties%20are%20modified%20EPRS_BRI(2022)733615_EN.pdf)
2. UK Parliament Hansard (2008). "European Union (Amendment) Bill." [https://hansard.parliament.uk/Lords/2008-04-01/debates/08040157000002/EuropeanUnion\(Amendment\)Bill](https://hansard.parliament.uk/Lords/2008-04-01/debates/08040157000002/EuropeanUnion(Amendment)Bill)
3. EUobserver (2007). "Lisbon Treaty made to avoid referendum, says Giscard." <https://euobserver.com/53854/lisbon-treaty-made-to-avoid-referendum-says-giscard/>
4. Romanian Journal of European Affairs (2010). "Understanding the Treaty of Lisbon." https://rjea.ier.gov.ro/wp-content/uploads/articole/RJEA_vol10_no2_Understanding_the_Treaty_of_Lisbon.pdf
5. Facebook discussion citing treaty complexity (2018). "300 pages of amendments cannot be read, unless they are compared..." <https://www.facebook.com/groups/theverybexitproblemsclub/posts/268685877389347/>
6. Oxford Academic (2011). "Treaty Revision Procedures after Lisbon." <https://academic.oup.com/book/4878/chapter/147258625>

9 Claim 4. "80% of Laws Come from the EU"

Article 5 TEU establishes that **"in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States"**. This is the core subsidiarity principle.

However, a key indication of the violation of this principle is that citizens experience on a regular base new laws and regulations that tend to regulate their daily life in minute details that are clearly not of interest to the whole of the European Union. This is exuberated because national governments tend to use the EU as an excuse to pass the law, although the EU as such mainly passes "directives" and it's up to the member states to implement them as national laws. National Parliament (yellow card) and even the European Parliament can block these but this never happens.

The impact of EU legislation is pervasive, with estimates indicating that upto 80% of national environmental laws and other sectors' regulations stem from European directives and regulations.

This level of integration signals a deep intertwining of national policies with European mandates, affecting everything from environmental standards to cross-border markets.

In addition, studies reveal that a substantial number of national associations engage in lobbying at the EU level, suggesting that a large group of them attempt to influence legislation directly from Brussels, underscoring how integral EU law is to national policy-making processes. Such dynamics reflect the complex relationship between national sovereignty and European integration, where legislation increasingly flows from EU institutions to member states, shaping domestic laws to a large extent.

9.1 The Claim's Origins and Prevalence:

The "80 percent" figure has been widely circulated in EU debates. Multiple sources document its use:

- Lobbying firms have claimed "80 percent of the laws and regulations which enter into effect in EU Member States now originate in Brussels rather than in the national parliaments"
- Legal consultancies state "Between 70 and 80 percent" of regulations come from the EU
- This statistic has been repeated by politicians, media, and advocacy groups across Europe

9.2 The Reality: Contested and Methodology-Dependent

UK House of Commons Research:

The most comprehensive analysis comes from the UK Parliament's research service, which found:

- Estimates vary wildly from 6% to 84% depending on methodology
- The variation depends entirely on what is counted: only primary legislation, secondary legislation, regulations vs directives, directly applicable EU law vs transposed law
- According to German studies cited in the research, "a share of 80 percent has only once occurred in a single policy domain" - not across all legislation

The research concludes: "There is no totally accurate, rational or useful way of calculating how much UK law comes from the EU". This avoids answering the question as it avoids making any quantitative response indicating whether the issue is not significant or even very significant. Multiple fact-checkers have examined this claim.

- Euronews fact-check (2024): "Most studies do maintain that while the EU heavily regulates some areas, the answer is not that straightforward"
- BBC Reality Check: "The claims about how much of UK law comes from the European Union vary so massively, it's really difficult to get a definitive answer"
- University of Cambridge analysis: Found that claims of "60% of UK laws" from the EU were misleading because they conflated different types of legislation

9.3 Why the Numbers Vary So Dramatically:

1. Methodological Issues:

Different studies count different things:

- Primary legislation only (Acts of Parliament): ~10-15% EU-influenced

- Including secondary legislation (regulations, statutory instruments): 30-50%
- Only directly applicable EU regulations: Higher percentage
- Including all EU-influenced laws (even those inspired by EU but not required): Up to 60-80%
- Specific policy domains (trade, agriculture, environment): Can reach 70-80%

2. Sectoral Variation:

The EU's influence varies dramatically by policy area

- High EU influence (70-80%): Trade policy, agriculture, fisheries, competition law, environmental standards
- Moderate EU influence (30-50%): Consumer protection, employment law, some business regulations
- Low EU influence (0-10%): Education, healthcare, criminal law (pre-Lisbon), taxation, defense, social security

3. What Counts as "EU Law"?

The confusion stems from different definitions:

- EU Regulations: Directly applicable in all member states without national legislation
- EU Directives: Require national implementing legislation (is this "EU law" or "national law"?)
- National laws influenced by EU: Laws that go beyond minimum EU requirements
- National laws in EU-regulated areas: Laws that would exist anyway but must comply with EU framework

9.4 Academic Consensus:

Research shows the 80% figure is misleading:

- No single accurate figure exists - it depends entirely on methodology
- Domain-specific variation is enormous - some areas heavily regulated, others barely touched
- The 80% figure appears to be the high end of estimates and applies only to specific sectors, not overall legislation

More realistic overall estimates should range from 15-80% depending on what is counted

9.5 The Grain of Truth:

While 80% overall is not supported, the claim contains elements of truth:

- In specific policy domains (especially economic regulation, trade, environment), EU law does dominate, sometimes reaching 70-80%
- EU regulatory influence has grown significantly since the Single Market and Lisbon Treaty
- The perception of EU dominance is real among member states, even if the precise figure is disputed

9.6 Assessment:

PARTIALLY TRUE but MISLEADING: The 80% claim as an absolute number is:

- True for specific sectors: Trade, agriculture, environmental regulation can reach 70-80% EU influence

- False as overall average: Comprehensive studies show 15-80% is more accurate depending on methodology
- Methodologically problematic: The figure depends entirely on what is counted and how it is counted
- Reflects a real concern: Even if exaggerated, it captures genuine growth in EU legislative competence

Conclusion:

The 80% figure is a political talking point rather than a rigorous statistic. It cherry-picks the highest estimates from specific policy domains and presents them as an overall average. However, it reflects a legitimate concern about the expanding EU competence, even if the precise number is disputed. It is also a genuine reflection of a growing discontent with the EU as a constant meddler in citizens affairs thereby undermining the support for the EU as a whole.

9.7 References:

1. Eutop (2024). "Lobbying in the new Europe." <https://www.eutop.com/en/publikationen/lobbying-in-the-new-europe/>
2. K&L Gates (2024). "European Public Policy and Market Access." https://files.klgates.com/files/upload/european_public_policy_brochure.pdf
3. UK House of Commons Library (2010). "How much legislation comes from Europe?" Research Paper 10/62. <http://researchbriefings.files.parliament.uk/documents/RP10-62/RP10-62.pdf>
4. Euronews (2024). "Fact-check: Does the EU decide 80% of our laws?" <https://www.euronews.com/my-europe/2024/03/22/fact-check-does-the-eu-decide-80-of-our-laws>
5. BBC News (2016). "Reality Check: How much UK law comes from the EU?" <https://www.bbc.com/news/uk-politics-eu-referendum-36473105>
6. University of Cambridge (2016). "Opinion: Fact Check: are 60% of UK laws really imposed by the EU?" <https://www.cam.ac.uk/research/news/opinion-fact-check-are-60-of-uk-laws-really-imposed-by-the-eu>
7. University of Rochester (2013). "Member States' Success and Influence in European Union Negotiations." <https://urresearch.rochester.edu/fileDownloadForInstitutionalItem.action?itemId=5848&itemFileId=9125>

10 Claim 5 "The Lisbon Treaty is Power Consolidation, Not Democratic Reform"

This conclusion can be seen as a synthesis of previous claims. Let us analyse both sides of the argument with evidence.

10.1 Evidence supporting "Power Consolidation":

1. Massive Expansion of EU Competences:

The Lisbon Treaty significantly expanded EU powers:

- **Extended qualified majority voting (QMV)** to approximately 45 additional policy areas, reducing member state vetoes
- QMV replaced unanimity as the **standard voting procedure** in the Council of Ministers, making it harder for individual states to block EU legislation
- Expanded EU competence into **new policy domains** including justice, home affairs, energy, public health, and civil protection
- Created new legal personality for the EU, allowing it to sign international treaties independently

2. Reduced National Control:

- **Member states lost veto power** in dozens of policy areas where they previously had unanimity requirements
- The shift to QMV means individual nations can be **outvoted and bound by decisions they oppose**
- National parliaments received only a **weak "yellow card" mechanism** that has rarely been successfully used (partly because it was designed to be impractical)

3. Accountability Gaps Persist:

Despite claims of democratic improvement, serious deficits remain:

- **The European Commission remains unelected** - commissioners are appointed, not directly elected by citizens
- The Commission President is proposed by the European Council and approved by Parliament, but **citizens cannot directly vote for or against** specific candidates
- The **European Council** (heads of state/government) gained significant power but operates largely behind closed doors
- Complex decision-making processes make it **difficult for citizens to identify who is responsible** for specific policies

4. The Obfuscation Strategy:

As verified in Claim 3:

- The treaty was **deliberately made unreadable** to avoid public scrutiny
- Architect Giscard d'Estaing admitted the complexity was **intentional to bypass referendums**
- This suggests the goal was consolidating power while **minimizing democratic oversight**

10.2 Evidence SUPPORTING "Democratic Reform":

1. Enhanced European Parliament Powers:

The Lisbon Treaty did strengthen parliamentary democracy:

- **Extended co-decision procedure** (renamed "Ordinary Legislative Procedure") to cover approximately 95% of EU legislation, giving the EU Parliament an equal say with Council
- EU Parliament gained **power to elect the Commission President** and approve the entire Commission
- Strengthened EU Parliament's role in budget approval and international agreements
- Increased EU Parliament's oversight powers over EU agencies and institutions

2. New Democratic Mechanisms:

- **Citizens' Initiative:** Allows 1 million citizens from multiple member states to petition the Commission to propose legislation
- **National Parliament "yellow card":** Gives national parliaments ability to object to legislation on subsidiarity grounds (at least theoretically)
- **Enhanced transparency:** Requirements for Council to meet in public when acting in legislative capacity

3. Charter of Fundamental Rights:

- Made the **Charter legally binding**, providing explicit rights protections for EU citizens
- Strengthened judicial protection through expanded Court of Justice jurisdiction

10.3 Critical Analysis:

The "Democratic Reforms" Have Significant Limitations:

European Parliament Powers:

- While the EU Parliament gained co-decision rights, it still **cannot initiate legislation** - only the Commission can
- The EU Parliament can approve or reject the Commission President, but **cannot directly nominate candidates**
- Turnout in European Parliament elections remains **consistently low (around 50%)**, suggesting weak democratic legitimacy

Citizens' Initiative:

- Has been **rarely successful** - most initiatives fail to meet requirements or are rejected by Commission
- Commission is **not obligated to propose legislation** even if initiative succeeds
- Represents a **consultative rather than binding mechanism**

National Parliament "Yellow Card":

- Has been **triggered only 3 times** since 2009, with limited impact
- Requires **one-third of national parliaments** to object (high threshold)
- Commission can **ignore objections** and proceed anyway

Academic Consensus:

Research on the Lisbon Treaty's democratic impact shows mixed results:

- Studies acknowledge that the EU Parliament gained powers but note **persistent democratic deficit** in Commission and Council
- The treaty "strengthened the EU Parliament's powers" but **did not fundamentally resolve democratic accountability issues**
- Academic analysis concludes the EU still suffers from **"representation deficits"** where citizens cannot effectively hold decision-makers accountable
- Research identifies ongoing problems: **"non-elected institutions"** (Commission), **complex decision-making**, and **distance between citizens and EU institutions**

10.4 Assessment of the Conclusion:

SUBSTANTIALLY SUPPORTED with important nuances:

The characterization as "power consolidation disguised as democratic reform" is **largely accurate** based on the evidence:

Power consolidation is undeniable:

- Expanded EU competences into 45+ new policy areas
- Reduced national vetoes through QMV expansion
- Strengthened Commission and European Council powers
- Deliberate obfuscation to avoid democratic scrutiny

Democratic reforms are real but insufficient:

- EU Parliament did gain significant powers
- New mechanisms (Citizens' Initiative, yellow card) exist but are **weak and rarely effective** (because impractical)
- Reforms did not address core accountability problems

The "pretending" aspect is evidenced by:

- Subsidiarity violations documented in Claim 1
- Referendum circumvention documented in Claim 2
- Deliberate obfuscation documented in Claim 3
- Gap between rhetoric and reality in democratic mechanisms

Nuance required:

- The reforms were not **entirely cosmetic**, the EU Parliament did gain meaningful powers
- Some member states **voluntarily supported** centralization for efficiency reasons
- The democratic deficit **predated Lisbon** - it didn't create the problem, though it arguably worsened it

Final Verdict:

The conclusion is **VALID and EVIDENCE-BASED**: The Lisbon Treaty represents **primarily power consolidation with secondary democratic improvements**. The evidence shows:

1. **Substantial power centralization** in Brussels through competence expansion and QMV
2. Persistent **accountability deficits** despite new mechanisms
3. **Deliberate strategies to avoid popular scrutiny** through obfuscation and referendum avoidance
4. **Rhetoric-reality gap** between subsidiarity principles and actual practice

The democratic reforms, while real, are **insufficient to counterbalance** the power consolidation and do not address fundamental accountability problems. The characterization as "pretending to respect subsidiarity and democracy" is supported by the documented gap between treaty language and actual implementation.

10.5 References:

1. EUR-Lex (2024). "Democratic deficit." <https://eur-lex.europa.eu/EN/legal-content/glossary/democratic-deficit.html>
2. Wikipedia (2024). "Treaty of Lisbon - Qualified majority voting." https://en.wikipedia.org/wiki/Treaty_of_Lisbon
3. SWP Berlin (2024). "The State of Consensus in the EU." <https://www.swp-berlin.org/10.18449/2024C16/>
4. European Union (2009). "Explaining the Treaty of Lisbon." https://europa.eu/rapid/press-release_MEMO-09-531_en.htm

5. E-International Relations (2015). "The Powers and Competences of the European Parliament Under the Treaty of Lisbon." <https://www.e-ir.info/2015/09/20/the-powers-and-competences-of-the-european-parliament-under-the-treaty-of-lisbon/>
6. European Parliament (2013). "The 'Lisbonisation' of the European Parliament." <http://www.statewatch.org/media/documents/news/2013/jul/ep-lisbonisation-study.pdf>
7. Boston University (2024). "The European Union has a Democratic Deficit Problem." <https://sites.bu.edu/pardeeatlas/opinions/op-ed-the-european-union-has-a-democratic-deficit-problem/>
8. Chicago Policy Review (2023). "The EU's Democracy Challenge – and Opportunity." <https://chicagopolicyreview.org/2023/10/09/the-eus-democracy-challenge-and-opportunity/>
9. FREE Group (2016). "Referendum Briefing 3: Does the EU have a 'democratic deficit'?" <https://free-group.eu/2016/06/15/referendum-briefing-3-does-the-eu-have-a-democratic-deficit/>
10. [From Claim 3] EUobserver (2007). "Lisbon Treaty made to avoid referendum, says Giscard."
11. European Parliament (2023). "Qualified majority voting in common foreign and security policy." [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740243/EPRS_STU\(2023\)740243_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740243/EPRS_STU(2023)740243_EN.pdf)
12. Taylor & Francis (2013). "Representation Deficits and Surpluses in EU Policy-making." <https://www.tandfonline.com/doi/full/10.1080/07036337.2013.799937>
13. [From Claim 1] Evidence of subsidiarity violations and competence creep
14. [From Claim 2] Evidence of referendum circumvention (Ireland, France, Netherlands)
15. University of Pittsburgh (2014). "Partisan politics and electoral procedure at the European Commission." <https://aei.pitt.edu/79401/1/Lehmann.pdf>

OVERALL ASSESSMENT - All Claims:

Claim	Verdict	Strength of Evidence
1. Subsidiarity violations	VERIFIED	Strong - documented competence creep
2. Forced upon citizens	VERIFIED	Strong - Ireland referendum, circumvention
3. Deliberate obfuscation	VERIFIED	Strong - architect's admission, format
4. 80% of laws from EU	PARTIAL	Partial - true for some sectors
Conclusion: Power consolidation	SUBSTANTIALLY VALID	Strong

The overall narrative is well-supported by evidence, with the exception of the 80% statistic which is exaggerated but reflects the reality in specific domains.

11 Competences Transferred from National to EU Level Under Lisbon Treaty

11.1 Framework: Three Categories of EU Competence

The Lisbon Treaty formally codified EU competences into three categories in Articles 3-6 TFEU:

1. **Exclusive competences:** Only EU can legislate; member states can only implement
2. **Shared competences:** Both EU and member states can act, but member states lose competence when EU acts
3. **Supporting competences:** EU can coordinate/support but cannot harmonize national laws

11.2 New and Expanded Competences Under Lisbon Treaty:

1. Qualified Majority Voting (QMV) Expansion:

The most significant transfer was extending QMV to at least 45 additional policy areas, removing national vetoes. This meant individual member states could no longer block EU legislation in these domains.

Key areas moved from unanimity to QMV include :

1. **Justice and Home Affairs:** Police cooperation, judicial cooperation in criminal matters, border controls
2. **Immigration and asylum policy:** Legal migration, asylum procedures
3. **Energy policy:** Security of supply, interconnection of networks
4. **Intellectual property rights:** Creation of European intellectual property rights
5. **Public health measures:** Cross-border health threats
6. **Civil protection:** Disaster response coordination
7. **Administrative cooperation:** Cross-border administrative assistance
8. **Humanitarian aid:** EU humanitarian operations
9. **Space policy:** European space programs

2. New Exclusive EU Competences:

The Treaty formalized and expanded exclusive competences in Article 3 TFEU :

1. **Trade in services:** Previously shared; now exclusive EU competence
2. **Commercial aspects of intellectual property:** EU gained exclusive external trade powers for IP
3. **Foreign direct investment:** New exclusive competence for international investment agreements

This was particularly significant because it meant member states completely lost the ability to negotiate independently in these areas, potentially undermining economic potential

3. New Shared Competences:

Areas where EU gained new or expanded shared competence (Article 4 TFEU) :

1. **Energy:** First explicit EU competence in energy policy (previously only indirect through internal market)
2. **Civil protection:** EU disaster response and prevention
3. **Tourism:** EU coordination of tourism policy
4. **Sport:** EU supporting role in sports policy
5. **Administrative cooperation:** Cross-border coordination

4. Justice and Home Affairs (Major Expansion):

Previously largely intergovernmental, these areas became significantly "communitarised":

1. **Criminal law cooperation:** EU can establish minimum rules on criminal offenses
2. **Police cooperation:** Europol gained expanded powers
3. **Judicial cooperation:** Cross-border recognition of judgments
4. **Border management:** Frontex and integrated border management
5. **Asylum and immigration:** Common asylum system, legal migration rules

5. External Relations and Foreign Policy:

1. **Common Foreign and Security Policy (CFSP):** Created High Representative for Foreign Affairs and Security Policy
2. **International agreements:** EU legal personality allows independent treaty-making
3. **Trade policy:** Expanded to services, IP, and investment

6. Climate Change and Environment:

1. **Climate policy:** Explicit EU competence in combating climate change (Article 191 TFEU)
2. **Energy efficiency:** EU standards for energy performance
3. **Environmental protection:** Strengthened EU environmental legislation power

7. Public Health:

1. **Cross-border health threats:** EU coordination powers for pandemics and health emergencies
2. **Quality and safety standards:** EU can set standards for organs, blood, tissues
3. **Tobacco and alcohol:** EU regulatory powers expanded

11.3 Specific Examples of Transferred Powers:

From National Veto to QMV :

Policy Area	Before Lisbon	After Lisbon	Impact
Legal immigration	Unanimity	QMV	Member states can be outvoted on migration quotas
Judicial cooperation (criminal)	Unanimity	QMV	Common criminal procedure rules without national veto
Police cooperation	Intergovernmental	QMV	Europol powers expanded without unanimous consent
Energy security	No explicit competence	Shared competence + QMV	EU can impose energy solidarity measures

Intellectual property	National	Exclusive EU competence	Member states lost independent IP treaty-making
Climate measures	Unanimity in some areas	QMV	EU climate targets binding without national veto

11.4 The Practical Impact:

Loss of National Sovereignty:

The shift to QMV in 45+ areas means:

- A member state can oppose a policy but still be legally bound by it if outvoted
- National parliaments cannot prevent EU legislation in QMV areas
- The "emergency brake" mechanisms are limited and rarely successful

Competence Creep Mechanisms:

The Treaty also maintained mechanisms for further expansion:

- Article 352 TFEU (flexibility clause): Allows EU action beyond explicit competences if "necessary to attain one of the objectives" - though Lisbon added some safeguards
- Passerelle clauses: Allow shifting from unanimity to QMV without full treaty amendment (requires unanimous European Council approval)
- Implied powers doctrine: Court of Justice can interpret competences broadly

11.5 Areas That Remained National:

Important to note what stayed primarily national:

- Taxation: Remains unanimity (though some coordination exists)
- Social security systems: National competence with EU coordination
- Education: National systems with EU supporting role
- Healthcare systems: National organization with EU coordination
- Defence: Largely national (though enhanced cooperation mechanisms exist)
- Foreign policy: CFSP remains largely intergovernmental despite reforms

11.6 Assessment:

The Lisbon Treaty represented a substantial transfer of competences from national to EU level:

- 45+ policy areas moved from national veto (unanimity) to QMV, allowing member states to be outvoted
- New exclusive competences in trade, investment, and IP removed national authority entirely
- Justice and home affairs shifted from intergovernmental to largely supranational
- Energy and climate gained explicit EU competence for first time
- External relations strengthened through legal personality and expanded treaty-making

This supports the "power consolidation" characterization, i.e. the Treaty significantly expanded EU authority while making it harder for individual member states to resist through veto power.

Complete List of 45+ Policy Areas Extended to QMV Under Lisbon Treaty

11.7 Challenge in Documentation:

While multiple sources confirm that the Lisbon Treaty extended QMV to "at least 45 policy areas" finding a single comprehensive numbered list of all 45+ specific areas is difficult because:

1. Different sources categorize them differently (some group related areas, others list separately)
2. The changes are scattered across multiple treaty articles
3. Some sources count sub-provisions separately, others as single areas

11.7.1 A comprehensive compilation from multiple authoritative sources:

Major Policy Areas Extended to QMV:

Justice and Home Affairs (Area of Freedom, Security and Justice)

1. **Judicial cooperation in civil matters** (cross-border recognition of judgments)
2. **Judicial cooperation in criminal matters** (mutual recognition of judgments)
3. **Police cooperation** (Europol, cross-border operations)
4. **Criminal law** (minimum rules on criminal offenses and sanctions)
5. **Eurojust** (European judicial cooperation body)
6. **Legal migration** (conditions of entry and residence)
7. **Illegal immigration** and repatriation (combating illegal immigration)
8. **Asylum policy** (common asylum system)
9. **Border controls** (integrated border management)
10. **Administrative cooperation** in justice and home affairs

Economic and Social Policy

11. **Intellectual property rights** (creation of European IP rights)
12. **Services of general economic interest** (public services regulation)
13. **Structural and Cohesion Funds** (regional development funding)
14. **European Social Fund** (employment and social policy funding)
15. **Vocational training** (coordination of training policies)
16. **Public health measures** (cross-border health threats)
17. **Humanitarian aid** (EU humanitarian operations)
18. **Civil protection** (disaster response and prevention)

Energy and Environment

19. **Energy policy** (security of supply, energy efficiency)
20. **Energy infrastructure** (interconnection of networks)
21. **Climate change measures** (emissions reduction targets)
22. **Environmental protection** (specific environmental measures)

External Relations and Trade

23. **Common commercial policy** (trade in services - expanded)
24. **International agreements** (certain categories)
25. **Development cooperation** (measures in developing countries)
26. **Economic, financial and technical cooperation** with third countries
27. **Humanitarian aid** operations

Institutional and Administrative

28. **Appointment of Commission** (European Parliament approval)

29. **European Public Prosecutor's Office** (establishment and operation)
30. **EU agencies** (establishment and powers of certain agencies)
31. **Enhanced cooperation** (authorization procedures)
32. **Withdrawal from the Union** (negotiation of withdrawal agreement)

Agriculture and Fisheries

33. **Common Agricultural Policy** (certain CAP measures)
34. **Common Fisheries Policy** (conservation measures)

Internal Market and Competition

35. **Freedom of establishment** (certain professions)
36. **Services** (liberalization of specific services)
37. **Transport policy** (certain transport measures)
38. **Trans-European networks** (guidelines for infrastructure)

Research, Space, and Innovation

39. **Research and technological development** (multi-annual framework programs)
40. **Space policy** (European space programs)

Culture, Education, and Sport

41. **Culture** (incentive measures, excluding harmonization)
42. **Education** (incentive measures, excluding harmonization)
43. **Sport** (supporting measures)
44. **Tourism** (complementary measures)
45. **Youth policy** (supporting measures)

Additional Specific Provisions

46. **Administrative cooperation** (cross-border administrative assistance)
47. **Statistics** (European statistical programs)
48. **Fraud prevention** (measures against fraud affecting EU financial interests)
49. **Transparency** (access to documents)
50. **Data protection** (rules on protection of personal data)

11.7.2 Specific Examples from Official Sources:

From European Commission/Council documentation:

- **Intellectual property rights:** Moved from unanimity to QMV (with exceptions for language arrangements and unitary patent)
- **Judicial cooperation in criminal matters:** Previously required unanimity; now QMV applies
- **Police cooperation:** Europol decisions moved to QMV
- **Legal migration:** Conditions for entry and residence moved to QMV
- **Energy security:** New QMV provision for measures ensuring security of energy supply
- **Civil protection:** EU disaster response measures moved to QMV
- **Humanitarian aid:** EU humanitarian operations moved to QMV

UK Parliament Analysis:

The UK Parliament's detailed analysis identified the extension of QMV as one of the most significant changes, noting it would "**reduce the UK's ability to block proposals**" in these areas. The Government Response acknowledged that "**the Lisbon Treaty's provisions on**

QMV may help to advance UK interests in some cases, increase the efficiency of decision-making" but also recognized the loss of veto power.

11.7.3 Important Qualifications:

Areas with "Emergency Brakes":

Some sensitive areas received "emergency brake" mechanisms allowing member states to refer matters to European Council if they believe fundamental national interests are affected:

- **Social security coordination** (Article 48 TFEU)
- **Criminal procedure** (Article 82 TFEU)
- **Criminal law harmonization** (Article 83 TFEU)
- **Operational police cooperation** (Article 87 TFEU)

However, these brakes are rarely used and difficult to activate.

Areas with "Passerelle Clauses"

The Treaty also included provisions allowing future shift from unanimity to QMV without full treaty amendment in certain areas (requires unanimous European Council decision):

- Family law with cross-border implications
- Certain aspects of social policy
- Environmental taxation
- Multiannual financial framework

11.7.4 Assessment:

The list demonstrates that the "45+ policy areas" figure is **accurate and well-documented**. The expansion covered:

- **Entire justice and home affairs domain** (10+ specific areas)
- **New policy competences** (energy, climate, space, sport, tourism)
- **External relations expansion** (trade in services, humanitarian aid)
- **Institutional procedures** (Commission appointment, EU agencies)

This represents a **substantial transfer of decision-making power** from national governments (who could previously veto) to the EU level where individual states can be outvoted .

11.8 References:

1. Wikipedia (2024). "Treaty of Lisbon." https://en.wikipedia.org/wiki/Treaty_of_Lisbon
2. Centre for European Reform (2024). "Does EU enlargement require voting reform?" <https://www.cer.eu/insights/does-eu-enlargement-require-voting-reform>
3. UK Parliament (2008). "House of Lords - Constitution - Written Evidence." <https://publications.parliament.uk/pa/ld200708/ldselect/ldconst/84/84we06.htm>
4. European Union (2009). "Explaining the Treaty of Lisbon." https://europa.eu/rapid/press-release_MEMO-09-531_en.htm
5. Oxford Academic (2011). "Freedom, Security, and Justice | The Lisbon Treaty." <https://academic.oup.com/book/3325/chapter/144393968>
6. Fordham International Law Journal (2010). "The Treaty of Lisbon: A story in History or the Making." https://ir.lawnet.fordham.edu/context/ilj/article/2301/viewcontent/34FordhamIntlLJ_285_29.pdf

7. UK Government (2007). "The Treaty of Lisbon." <https://assets.publishing.service.gov.uk/media/5a7c6551e5274a7ee501aae2/7901.pdf>
8. European Parliament (2023). "Qualified majority voting in common foreign and security policy." [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740243/EPRS_STU\(2023\)740243_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/740243/EPRS_STU(2023)740243_EN.pdf)
9. ASIL (2010). "The Treaty of Lisbon Expands the EU's External Trade and Investment Powers." <https://www.asil.org/insights/volume/14/issue/29/treaty-lisbon-expands-eu%E2%80%99s-external-trade-and-investment-powers>
10. UK Parliament (2008). "Research Paper 08/09 - Lisbon Treaty amendments." <http://researchbriefings.files.parliament.uk/documents/RP08-09/RP08-09.pdf>
11. UK Parliament (2008). "Government Response to the European Union Select Committee." <https://www.parliament.uk/documents/upload/Lisbon%20Treaty%20report.pdf>
12. EUR-Lex (2024). "Division of competences within the European Union." <https://eur-lex.europa.eu/EN/legal-content/summary/division-of-competences-within-the-european-union.html>
13. RGSL (2010). "Competence, Categories, and Control." <https://www.rgsl.edu.lv/data/pdf-files/5.-competence-categories-and-control.pdf>
14. Oxford Academic (2017). "A Primer on Union Competences." <https://academic.oup.com/book/16534/chapter/171901847>
15. Wikipedia (2024). "Treaty of Lisbon - Qualified majority voting." https://en.wikipedia.org/wiki/Treaty_of_Lisbon
16. Quizlet (2024). "AQA A-Level Politics - EU Key Terms." <https://quizlet.com/gb/775358821/aqa-a-level-politics-of-the-uk-paper-1-eu-key-termsfacts-flash-cards/>
17. City University London (2018). "Brexit and the City." <https://openaccess.city.ac.uk/id/eprint/19672/1/Brexit%20and%20the%20City%20v2.pdf>
18. European Union (2009). "Explaining the Treaty of Lisbon." [https://europa.eu/rapid/press-release MEMO-09-531_en.htm](https://europa.eu/rapid/press-release_MEMO-09-531_en.htm)
19. ASIL (2010). "The Treaty of Lisbon Expands the EU's External Trade and Investment Powers." <https://www.asil.org/insights/volume/14/issue/29/treaty-lisbon-expands-eu%E2%80%99s-external-trade-and-investment-powers>
UK Parliament (2008). "Research Paper 08/09 - Lisbon Treaty amendments." <http://researchbriefings.files.parliament.uk/documents/RP08-09/RP08-09.pdf>

12 Treaty violations

12.1 Subsidiarity Principle Violations

When we ask if "the EU" violated the Treaty of Lisbon, we are usually asking if EU institutions (the Commission, the Council, or the Parliament) passed laws or made decisions that went beyond the powers granted to them by the Member States.

Under the Treaty of Lisbon (which entered into force in 2009), the Charter of Fundamental Rights became legally binding. Therefore, any EU legislation that infringes on these rights is considered a violation of primary EU law. The Court of Justice of the European Union (CJEU) acts as the "constitutional court" to police this. When the CJEU annuls an EU act, it is effectively confirming that the EU institution in question violated the Treaties.

The most commonly cited violation concerns the principle of subsidiarity, which is a core principle established in the Treaty of Lisbon. This principle requires that the EU should only act when objectives cannot be sufficiently achieved by member states themselves. According to one analysis, the EU has been accused of violating this principle, particularly when the EU enforces certain founding values in ways that directly contradict the subsidiarity principle itself.

The Treaty of Lisbon introduced specific control mechanisms for subsidiarity, allowing national parliaments to review Commission initiatives. However, research shows that in practice, national parliaments have rarely used their competence to counteract the Commission's initiatives to breaching the subsidiarity principle, suggesting either compliance or ineffective oversight mechanisms.

12.2 Enforcement Mechanisms vs. Actual Violations

It's important to note that the Treaty of Lisbon established Article 7 TEU, which provides mechanisms to address breaches of EU values by member states, not by EU institutions themselves. This article confers discretionary power on the Council and European Council to determine whether serious breaches have occurred.

12.3 Limited Documentation

The search results indicate that while there are allegations and criticisms of EU institutions overstepping their Treaty of Lisbon boundaries (particularly regarding subsidiarity), there appear to be relatively few formally documented legal cases where EU institutions were found to have definitively violated the Treaty. Most documented cases involve member states' compliance with EU law rather than EU institutions violating their own treaty obligations.

The lack of extensive documentation may reflect either general compliance by EU institutions or the political and legal complexity of challenging EU institutional actions under the Treaty framework.

While the EU institutions generally operate within their treaty framework, there are several well-documented cases and credible allegations where EU actions have been argued to violate or circumvent the Treaty of Lisbon. Below an overview.

12.4 Major Cases of EU Institutions Violating the Treaties

12.4.1 The Data Retention Directive (Digital Rights Ireland, 2014)

This is perhaps the most famous post-Lisbon example of EU legislation being struck down for violating the Treaty framework (specifically the Charter).

- The Violation: The EU Legislature (Council and Parliament) had passed a directive requiring telecom companies to store user data (metadata) for up to two years to aid police investigations.
- The Ruling: In *Digital Rights Ireland* (Joined Cases C-293/12 and C-594/12), the CJEU declared the directive invalid.
- Reasoning: The Court ruled that the mass retention of data entailed a "wide-ranging and particularly serious interference" with the fundamental rights to privacy and data protection (Articles 7 and 8 of the Charter). The EU legislature had exceeded the limits of proportionality imposed by the Treaty.

12.4.2 The "Safe Harbor" & "Privacy Shield" Decisions (Schrems I & II)

These cases involved the European Commission violating the Treaties by approving data transfer agreements with the US that did not offer sufficient protection.

- The Violation: The Commission had issued "adequacy decisions" declaring that US data protection laws were sufficient to allow European data to be transferred there (first under "Safe Harbor," then "Privacy Shield").
- The Ruling:
 - *Schrems I* (2015): The CJEU invalidated the "Safe Harbor" framework.
 - *Schrems II* (2020): The CJEU invalidated the "Privacy Shield" framework.
- Reasoning: The Court found the Commission failed to ensure that the US provided a level of protection "essentially equivalent" to that guaranteed within the EU by the Treaty and Charter, particularly regarding US surveillance laws.

12.4.3 The ECHR (European Court of Human Rights) Accession Paradox (Opinion 2/13)

This is a unique case where the Treaty of Lisbon obliges the EU to act, but the Court blocked the action for violating the Treaty's structure.

- The Context: Article 6(2) of the Treaty on European Union (TEU) explicitly states: "The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms."
- The Violation (Draft Agreement): The Commission negotiated a draft agreement to join the ECHR.
- The Ruling: In *Opinion 2/13* (2014), the CJEU ruled that the draft agreement was incompatible with the Treaties.
- Reasoning: The Court argued that the agreement would undermine the autonomy of EU law and the powers of the CJEU. Essentially, the "way" the EU tried to fulfil the Treaty obligation was itself a violation of the Treaty's constitutional architecture.

12.4.4 Disputes over "Legal Basis" (Institutional Balance)

Frequently, the Council (Member State ministers) and the Parliament disagree on which Treaty article should be used to pass a law. Using the wrong article is a Treaty violation because it affects legislative procedures (e.g., voting rules).

Example (Case C-130/10): The Parliament sued the Council regarding restrictive measures against Al-Qaeda. The Council used a Common Foreign and Security Policy (CFSP) legal basis. The Court annulled the regulation, ruling it should have been based on the TFEU (internal market/movement of capital), which gives the Parliament more power.

12.4.5 Summary Table: Key Annulments

Case Name	Institution at Fault	Treaty/Right Violated	Outcome
Digital Rights Ireland	Parliament & Council	Charter Arts. 7 & 8 (Privacy)	Directive declared invalid
Schrems I & II	Commission	Charter & GDPR (Adequacy)	Adequacy decisions annulled
Opinion 2/13	Commission (Drafting)	Autonomy of EU Law	Accession agreement blocked
Case C-130/10	Council	Wrong Legal Basis (TFEU)	Regulation annulled

There are documented cases of the EU institutions violating its own treaties. However, in the EU legal system, these are not usually described as "the EU breaking the law" in a criminal sense, but rather as **checks and balances functioning**. When the Commission or Council oversteps the powers granted by the Treaty of Lisbon, the Court of Justice (also an EU institution) steps in to annul those acts, thereby restoring Treaty compliance.

12.5 Documented Cases of Overstepping Competence

12.5.1 The Illumina/GRAIL Case (2024) – Commission Overreach in Mergers

This is a landmark recent example where the Commission was found to have invented a power it did not possess regarding merger control.

- **The Overstep:** The Commission tried to review the acquisition of GRAIL by Illumina, even though the merger did not meet the revenue thresholds for EU review, nor the thresholds for review in the Member States that referred the case. The Commission re-interpreted Article 22 of the EU Merger Regulation (EUMR) to claim it could review any merger referred to it, even those with no "European dimension" under standard rules.
- **The Ruling:** In *Illumina v Commission* (Joined Cases C-611/22 P and C-625/22 P), the CJEU ruled that the Commission lacked the competence to accept these referrals.
- **Key Reasoning:** The Court held that the Commission cannot use a procedural article (Art. 22) to expand its jurisdiction beyond the scope defined by the Merger Regulation. Doing so would upset the balance between the EU and Member States and undermine legal certainty for businesses.

12.5.2 The Tobacco Advertising Directive I (Germany v Parliament & Council, 2000)

A classic pre-Lisbon case that remains the definitive precedent for legislative competence. It established that the EU cannot use "Internal Market" powers just to ban things it dislikes.

- The Overstep: The Council and Parliament passed a directive banning tobacco advertising, claiming it was necessary to smooth the functioning of the internal market (using the predecessor to Art. 114 TFEU).
- The Ruling: In Case C-376/98, the Court annulled the directive.
- Key Reasoning: The Court found that the ban did not actually help trade (it killed trade in advertising services). Therefore, the EU had no competence to pass a general public health ban, as public health was primarily a Member State competence. The EU could not "circumvent" this lack of power by pretending it was a market regulation.

12.5.3 The Migration/Visa Policy Dispute (Parliament v Council, 2015)

This case highlights "institutional" competence—where the Council tried to exclude the Parliament from decision-making.

- The Overstep: The Council adopted a decision on surveillance of the external sea borders (part of the Schengen code) using a procedure that treated it as a mere "implementing measure," which allowed them to bypass the Parliament.
- The Ruling: In Case C-355/10, the Court annulled the Council's decision.
- Key Reasoning: The Court ruled that the rules regarding border surveillance were "essential elements" of the legislation. Therefore, the Council lacked the competence to decide this alone; it required the full legislative procedure involving the Parliament.

12.5.4 Trade Agreements & "Mixed" Competence (Opinion 2/15, Singapore FTA)

While not an "annulment," this opinion clarified where the Commission cannot act alone without Member State ratification.

- The Overstep: The Commission argued it had exclusive competence to sign the Free Trade Agreement with Singapore, meaning national parliaments didn't need to vote on it.
- The Ruling: The Court ruled that while the EU has exclusive competence over most trade matters, it lacked exclusive competence over portfolio investment and dispute settlement (ISDS).
- Consequence: The Commission could not force the agreement through as an "EU-only" deal; it required ratification by all Member States because it touched on competences shared with them.

12.5.5 German Constitutional Court - ECB Bond-Buying Program (2020)

The German Federal Constitutional Court (BVerfG) ruled in May 2020 that the European Central Bank's Public Sector Purchase Programme (PSPP) constituted an ultra vires act - meaning it exceeded the ECB's mandate. The Court declared that both the ECB and the Court of Justice of the European Union (CJEU) had acted beyond their competences. The BVerfG found that the CJEU failed to properly assess the proportionality of the PSPP and that the ECB's bond-buying program violated the prohibition of monetary financing.

This ruling was unprecedented because it directly challenged a CJEU judgment, with the German court asserting that the CJEU's 2018 ruling was itself ultra vires. The European Commission subsequently launched infringement proceedings against Germany over this decision.

12.5.6 Czech Constitutional Court - Slovak Pensions Case (2012)

The Czech Constitutional Court declared a CJEU judgment in the Landtová case (C-399/09) to be ultra vires in 2012. The case concerned Slovak pensions for Czech citizens who had worked in former Czechoslovakia. The Czech court argued that the CJEU had exceeded its competences by interfering with matters that fell within national sovereignty.

The Constitutional Court insisted on its own case-law despite the CJEU's ruling, creating a direct conflict between national and EU law.

12.5.7 "Competence Creep" Phenomenon

Scholars have documented a broader pattern called "competence creep" - situations where EU-level rules emerge in fields where the EU doesn't have specific competence under the treaties. This occurs when EU institutions gradually expand their authority beyond what was originally intended in the treaties.

Research indicates that competence creep threatens the integrity of the EU's competence framework and is a concern not only for Member States but for the EU system as a whole. It can occur through expansive interpretation of free movement case law and other mechanisms.

12.5.8 Recent Poland Case (2023-2025)

The CJEU recently rejected Poland's arguments about national identity and ultra vires review as limits to EU law in Case C-448/23 Commission v Poland. This case represents the ongoing tension between national constitutional courts and EU institutions over the boundaries of EU competences.

These cases demonstrate that the question of whether EU institutions overstep their competences remains highly contested, with national constitutional courts occasionally asserting their right to review whether EU acts exceed treaty-defined powers.

12.5.9 Summary: Types of Competence Violations

Type of Overstep	Example Case	Core Issue
Jurisdictional Creep	Illumina/GRAIL	Commission trying to review mergers below legal thresholds.
Disguised Legislation	Tobacco Advertising I	Using "Market" powers to pass "Health" laws (which were national powers).
Bypassing Parliament	Border Surveillance (C-355/10)	Council claiming a major political decision was just a technical "implementation."
Treaty Autonomy	Opinion 2/13 (ECHR)	Commission drafting an external agreement that violated the EU's own judicial structure.
Eurozone bailouts	Art. 125 TFEU (no-bailout clause)	Financial rescue funds seen as circumventing the treaty
Institutional power disputes	Art. 263 TFEU (annulment actions)	EU bodies suing each other for overstepping powers

Subsidiarity breaches	Art. 5 TEU	EU acting in areas reserved for member states
National sovereignty concerns	General treaty framework	National courts flagging competence creep

The CJEU actively polices the boundaries of EU power. The Illumina judgment (2024) is particularly significant because it halted the Commission's attempt to aggressively expand its regulatory reach without amending the actual legislation, reaffirming that competence is defined by the Treaties, not by administrative policy.

In summary, while the EU has not been formally "convicted" of violating its own treaty in the way a member state might be, there are multiple credible, documented instances where EU institutions have been legally challenged, and in some cases overruled, for acting beyond the boundaries set by the Treaty of Lisbon. The eurozone bailout saga remains the most high-profile example where the spirit (if not the letter) of the treaty was widely seen as breached.

12.5.10 Sources referenced:

1. Bruegel.org on the no-bailout clause. <https://www.bruegel.org/policy-brief/blue-bond-proposal-0>
2. Yanis Varoufakis on the eurozone crisis. <https://www.yanisvaroufakis.eu/modest-proposal/2-the-nature-of-the-eurozone-crisis/>
3. Wikipedia: Euro area crisis. https://en.wikipedia.org/wiki/Euro_area_crisis
4. EU official site on CJEU annulment powers. <https://eur-lex.europa.eu/EN/legal-content/glossary/annulment.html>
5. CURIA case: Council v. Commission (2013) <https://infocuria.curia.europa.eu/tabs/document?source=document&docid=182295&doclang=en>
6. Wiley: Power Shifts via Annulment Actions <https://ideas.repec.org/a/bla/jcmkts/v56y2018i6p1429-1445.html#:~:text=Miriam%20Hartlapp-,Abstract,DOI:%2010.1111/jcms.12753>
7. EUR-Lex on the subsidiarity principle <https://eur-lex.europa.eu/EN/legal-content/glossary/principle-of-subsidiarity.html>
8. Hungarian Conservative on subsidiarity violations <https://www.hungarianconservative.com/articles/opinion/eu-violates-subsidiarity-principle/>
9. German Federal Constitutional Court, Lisbon Treaty ruling (2009) https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2009/06/es20090630_2bve000208en.html

13 Proposed amendments to the EU treaties

13.1 Why the Lisbon treaty is not final

The European Union has always followed a path of successive changes, often triggered by a passage through crisis, be it internally or because of the geopolitical context. Each time, inadequacies came to light and new treaties were ratified or existing treaties were amended.

Firstly, the last treaty, i.e. the Lisbon treaty followed a curious path. Originally meant as a new treaty, the Constitution of the European Union, it was replaced by a new treaty in the form of an extensive list of amendments to existing treaties. This path is worrisome as it undermined the democratic legality of it, even if arguments can be raised that it was a necessity long overdue. It did not help in getting citizens' support, which is a long-term risk that is currently emerging.

Secondly, the treaty was meant to increase the democratic process in Europe but this largely failed in practice. National as well as the EU parliaments, even if they are the official legislative powers, largely rubberstamp the Commission's proposals and directives. Very seldomly are these challenged. The reasons are not so much the treaty itself but the fact that the real power is under control of political parties and the nation's executive powers. It should be noted that this reflect very often the situation at national level which is projected at the EU level. In both cases, the members of parliament who are supposed to represent the citizens, do not act on behalf of the citizens but on behalf of political parties and the power structures behind them. And as was pointed out, this undermining of democratic principles is reinforced by a salient majority that has intruded the institutions and media. In addition, lobbying by strong groups and organisations heavily influences the decision-making processes. The Lisbon treaty does not seem to have anticipated these democracy undermining actors.

Thirdly, the Lisbon treaty transferred many competences from the national to the European level. It allowed the EU to impose stringent measures on all member states during the Covid epidemic, stringent CO2 emission obligations, a counter-productive energy policy and an avalanche of regulations in many domains that impact on the industry but also on citizens' daily life. It is questionable if these grand schemes like the "Green Deal" would ever have materialised if a real democratic decision process would have been in place. Practice has also shown that the treaty did not establish clear boundaries between competences at the national and supra-national level. This weakness was exploited to impose many regulations from the top, often ignoring that the EU is composed of a heterogenous set of nation states.

Fourthly, the Lisbon treaty did no establish a structure that would have allowed the EU to act as a strong unified block at the supra-national level. While some steps were taken, in practice the EU still acts as a weak, opportunistic collection of national states and heads of state, while important decisions can still be blocked by a single member state. This concerns domains like defence, international politics, economic policies and innovation strategy.

And last but not least, if one looks at what the EU in Europe achieved in the last 20 years, then it is clear that the treaty was fraught with wishful thinking. The position of the EU in the world has been shrinking economically as well as politically and continues to do so. The EU is known for its high level of social security programs, taxes, regulations and quality of education. These are increasingly financed by debt whereas the economy is shrinking and hence the export balance is not generating the means to finance it. Other power hegemonies are exploiting this weakness, be it economically or geopolitically. Would there have been a tariff war if the EU would have in a strong economic position? Would there have been a huge import dependency on China if the European industry would have remained competitive? Would there have been a war with Russia, if the EU would have had a strong deterrent defence organisation?

All above points to the need revising the Lisbon treaty. On the one hand, competences need to be delegated back to the nation states and citizens need to regain democratic control. Guidelines and norms can be supra-national, concrete regulations can be national. On the other hand, the EU needs a much stronger structure at the supra-national level. In essence, the EU should focus exclusively on those domains that are supra-national by definition and in practice.

13.2 Key Amendments Proposed

A proposal titled "Five Surgical Strikes on the Treaties of the European Union" suggests specific **amendments to key articles of the Lisbon Treaty**. This includes changes aimed at enhancing decision-making processes and improving the efficiency of EU institutions without convening a full Convention for treaty revision. The focus is on making the EU more responsive and effective in its operations, particularly in crisis situations and in addressing contemporary challenges like climate change and migration.

13.3 Strengthening Democratic Accountability

Proposals include **increasing the legislative powers of the European Parliament** to ensure greater democratic accountability. This could involve adjustments to the ordinary legislative procedure to give Parliament more influence over key decisions, thereby enhancing its role in shaping EU policies

13.4 Addressing Institutional Challenges

There are calls for **simplifying the decision-making processes** within the EU to avoid gridlock and improve responsiveness. This could involve revising voting thresholds and procedures in the Council to facilitate quicker and more effective decision-making

13.5 Adapting to Global Challenges

Proposals also include amendments aimed at **strengthening the EU's common foreign and security policy**. This could involve establishing clearer frameworks for collective defense and external action, enabling the EU to respond more effectively to global crises.

13.6 Public and Institutional Engagement

There is an emphasis on **engaging citizens and stakeholders in the treaty amendment process**. This involves holding consultations and possibly a Conference on the Future of Europe to gather input on desired changes and reforms.

13.7 Legal and Regulatory Adjustments

The European Commission has put forward regulations aimed at aligning various legal frameworks with the proposed treaty amendments. This includes **adjustments to existing regulations** to ensure that they reflect the intended changes in governance and operational efficiency

13.8 Legislative Priorities for 2026

The EU institutions have outlined key legislative priorities for 2026, focusing on enhancing the EU's competitiveness and resilience. This includes fostering economic recovery post-COVID-19 and addressing challenges such as climate change and digital transformation. The emphasis is on creating a more robust framework that can adapt to future challenges and ensure the EU remains a strong global player .

13.9 Reform for Future Enlargements

There are ongoing discussions about reforms necessary to prepare the EU for future enlargements. The aim is to create a more unified and democratic structure that can effectively integrate new member states while maintaining operational efficiency. This involves addressing institutional bottlenecks and ensuring that decision-making processes are streamlined to accommodate a larger union .

13.10 Drivers of Reform Momentum

A recent analysis highlights various drivers behind the renewed momentum for EU reform. Key factors include the need for a stronger response to global challenges, such as geopolitical tensions and economic instability. There is also a push for reforms that enhance democratic accountability and improve the EU's legislative processes, reflecting citizens' concerns and expectations more effectively .

13.11 Concrete Steps for Reform

Proposals suggest specific reforms to make the EU more agile and responsive. This includes enhancing the role of the European Parliament and other institutions in the legislative process, improving transparency, and fostering greater citizen engagement in EU governance. The goal is to create a more democratic and participatory framework that can effectively address contemporary issues .

13.12 Challenges and Delays

Despite the push for reforms, there are challenges and delays in the implementation of proposed changes. For instance, the Commission's proposal on pre-enlargement reforms has faced setbacks, raising concerns about the EU's ability to adapt in a timely manner to both internal and

external pressures. This situation emphasizes the urgency of addressing institutional inefficiencies to prevent stagnation in the reform process .

13.13 Reference sources:

1. [Five Surgical Strikes on the Treaties of the European Union](https://www.europeanpapers.eu/europeanforum/five-surgical-strikes-on-treaties-of-european-union). <https://www.europeanpapers.eu/europeanforum/five-surgical-strikes-on-treaties-of-european-union>
2. [COM\(2026\) 69 - Data - European Union](https://data.consilium.europa.eu/doc/document/ST-6313-2026-INIT/en/pdf). <https://data.consilium.europa.eu/doc/document/ST-6313-2026-INIT/en/pdf>
3. [EUR-Lex - European Union Procedures](https://eur-lex.europa.eu/procedure/EN/2026_44). https://eur-lex.europa.eu/procedure/EN/2026_44
4. [EU institutions define priorities for 2026](https://www.consilium.europa.eu/en/press/press-releases/2025/12/18/eu-institutions-define-priorities-for-2026/). <https://www.consilium.europa.eu/en/press/press-releases/2025/12/18/eu-institutions-define-priorities-for-2026/>
5. [Reform the Union to unify Europe](https://federalists.eu/pr-reform-the-union-to-unify-europe/). <https://federalists.eu/pr-reform-the-union-to-unify-europe/>
6. [EU reform is back on the agenda](https://fiia.fi/en/publication/eu-reform-is-back-on-the-agenda). <https://fiia.fi/en/publication/eu-reform-is-back-on-the-agenda>
7. [The EU's pre-enlargement reforms are still “in the oven”](https://newunionpost.eu/2026/02/10/pre-enlargement-reforms-eu-commission/) <https://newunionpost.eu/2026/02/10/pre-enlargement-reforms-eu-commission/>
8. [European Parliament: Proposals to Amend the Treaties \(2023\)](https://www.europarl.europa.eu/news/en/press-room/20231117IPR12217/future-of-the-eu-parliament-s-proposals-to-amend-the-treaties). <https://www.europarl.europa.eu/news/en/press-room/20231117IPR12217/future-of-the-eu-parliament-s-proposals-to-amend-the-treaties>
9. [EPRS Think Tank Report \(2023\)](https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2023)754593). [https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA\(2023\)754593](https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2023)754593)
10. [JEF Europe: Treaty Change](https://jef.eu/treaty-change/). <https://jef.eu/treaty-change/>

The ongoing discussions about amending the EU treaties reflect a comprehensive effort to adapt to current and future challenges. The focus on legislative priorities, democratic accountability, and preparedness for enlargement highlights the EU's commitment to evolving its governance structures in response to a changing global landscape.

These proposals reflect a growing consensus that the EU's current treaties may need modernization to meet 21st-century challenges — though political consensus remains a significant hurdle.