***Danuta Hübner***
***Chair of the Committee on Constitutional Affairs in the European Parliament***

***"Is EU institutional law resilient enough to face tomorrow's crises?"***

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It is always a pleasure to get people together on the occasion like the one of today which is launching a book. People have gathered to have a discussion on a book that theoretically could be a boring one because it is about law and institutions. Yet we want to spare a couple of hours to reflect on it. Why is it so? The answer is rather simple. Even if the European house is not on fire anymore, list of challenges to face is rather long and there is a need to ask ourselves whether the EU institutional law is resilient enough to face crises of tomorrow.

I welcome you all here for the launch of the "Research Handbook on EU Institutional Law". It analyses the changes brought to the EU legal and institutional setup by the Lisbon Treaty and assesses whether the current architecture is still fit for purpose in these times of multiple crises. The authors of the book look into the constitutional and institutional foundations of the Union, with a specific focus on the Court of Justice. I am grateful to leading editor, Adam Lazowski, who will give further details about the work and its findings, for his presence.

I am also pleased to see here participants from a variety of institutions: the European Parliament, but also the Commission, the Committee of the Regions, and permanent representations, as well as the academia.

I hope we will have a fruitful discussion. But before I give the floor to the authors, let me share briefly with you my views on the legal state of the Union, its strengths and shortcomings.

The EU and its Member States are facing challenges that are unprecedented by their number and scale, but also by their often systemic nature. These challenges, often of political nature, are putting to the test the EU's existing institutional and legal basis.

Unfortunately, the Union's reaction to these ongoing challenges has not always been the swiftest and the most effective, raising doubts whether in its present state the Union can deliver and respond to the needs of its citizens.

The recent crises have revealed that the approximation of legal provisions alone is not sufficient for ensuring the functioning of the internal market or the area of freedom, security and justice. The Union is in dire need of a swift,

qualitative reform, which, apart from the adoption of the necessary legislation and implementation by Member States of the decisions taken, needs to be facilitated by better use of the existing provisions of the Treaty of Lisbon. In a next step towards delivering better in response to the expectations of EU citizens, institutional reform should go beyond what is available under the existing legal base and might at some point warrant a Treaty reform. We need it rather sooner than later. The purpose would be to have a better legal framework to cope with problems and opportunities.

The European Parliament is currently considering three interrelated reports that bear an impact on this discussion.

Two of those fall within the remit of the Committee on Constitutional Affairs and are scheduled for adoption in committee on 21 November. One is titled "Improving the functioning of the European Union building on the potential of the Lisbon Treaty" (rapporteurs: Mercedes Bresso, Elmar Brok) and gives an assessment of what would be possible to do under the current Treaty framework. The second one is titled "Possible evolutions of and adjustments to the current institutional set-up of the European Union" (rapporteur Guy Verhofstadt). The third report on a "Budgetary capacity for the Eurozone" falls in the remit of two committees that are jointly drafting the report, namely the Committee Economic and Monetary Affairs and the Committee on Budgetary Affairs.

I would like to start with comments on the institutional set up for improved democracy and accountability.

One of the ways of strengthening democratic legitimacy implies making all institutions more accountable to the citizens through their representatives acting at the level where they are elected. In light of the principle of division of powers, parliamentary control of the executive is one of the powers traditionally vested in parliaments. Deeper European integration should thus provide for greater parliamentary involvement at both national and Union levels. Democratic accountability must be ensured at the level where decisions are taken. This means that at EU level it shall be secured by the European Parliament and at the level of the Member States by national parliaments (in line with their respective constitutional provisions), in accordance with the subsidiarity principle.

Many intergovernmental solutions emerged in response to the crisis. While such solutions cannot always be avoided, they should, however, be an instrument of absolute ultima ratio and acceptable only if they meet a number of conditions. They should aim to deepen the European integration. They may not modify primary law and must be in compliance with existing primary and secondary law. Furthermore, they should only be considered if a legislative procedure covering all EU Member States or an enhanced cooperation procedure failed or is likely to fail. They may not undermine the institutional balance of the Union and should hence respect the competences of the European Parliament.

The necessity of taking urgent and highly political decisions during the economic and financial crisis have resulted in many decisions being taken in the spirit of crisis management at the European Council level and not through the ordinary Treaty procedures. This puts into question both the democratic legitimacy of such decisions and the efficiency of existing procedures. The expansion of European Council's role into the legislative process should be curbed as it is not in line with the letter and spirit of the Treaties.

Furthermore transparency is suboptimal. Overall access to information and documents of the Council, including the Eurogroup, should be enhanced; Under the current Treaty framework steps could be made towards transforming the Council into a truly legislative chamber by reducing the number of Council configurations. This would help create a genuinely bi-cameral legislative system involving the Council and the European Parliament. The existing Council configurations could act as preparatory bodies similar in their function to Parliament's Committees.

The passerelle clause (Article 48(7) TEU) should finally be put to use to transfer decision-making in the Council from unanimity to QMV in as many areas of decision-making as possible in order to facilitate the legislative process. Furthermore, the European Council should also decide allowing for the adoption of acts, now still decided through to a special legislative procedure, in accordance with the ordinary legislative procedure to make it more democratically accountable.

While the Parliament elections in 2014 created a precedent in the election of Commission President through the "Spitzenkandidaten" process, the role of the Parliament in the election of Commission President should be further strengthened and codified. The formal consultations of political groups with the European Council President, as foreseen in Declaration 11 annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, should be reinforced in order to ensure that the European Council takes full account of the election results when presenting a candidate for Parliament to elect.

Economic governance is another area currently in the strongest need of reform. The interim solutions that emerged in response to the economic and financial crisis and gave rise to new institutional arrangements often outside the Treaty framework or only partially "borrowing" EU institutions (as is the case of ESM using the ECB and the Commission), should be reconsidered. A new economic governance architecture should be put in place in order to help deliver stability, convergence, growth and jobs. This structure should be based on the community method for decision-making. It is actually the only one that ensures full democratic accountability and transparency and allows for national parliaments to take their responsibility on national level and the European Parliament on EU level.

Most of the institutional changes needed for the new economic governance architecture could be done within the existing Treaty provisions. This is true

with regard to the creation of fiscal capacity for the euro-area, the adoption of a convergence code or establishing a European Finance Minister;

You may also be aware that in its recent ruling on Leda Advertising, the European Court of Justice made a step forward in making the intergovernmental arrangements that emerged in the economic crisis more EU accountable by spelling out that the EU should bear the appropriate degree of responsibility when allowing its institutions (Commission and ECB in this case) to operate within the ESM framework.

Institutional settings for Europe acting globally is another challenge. There are a number of provisions within the existing Treaties that remain unused even though they might offer solutions to some of the challenges faced by the Union in its relations with the rest of the world. To name a few, these are provisions for permanent structured cooperation of Article 46 TEU, the provisions to define a common European capabilities and armaments policy (Article 42 (3) TEU), the creation of a start-up fund to finance preparatory activities in the field of CSDP and the creation of permanent military operational headquarters within the existing Civilian Planning and Conduct Capability.

There is a need for a coordinated and structured position of the Union and of the Member States in international organisations and international fora in order to enhance the influence of the Union and of its Member States in these organisations and fora. However, entering into international obligations by the Union and/or by the Member States cannot reduce the role of national Parliaments and of the European Parliament to mere rubber stamping. The European Court of Justice has confirmed that Parliament has the right under article 218(10) TFEU to be fully and immediately informed at all stages of the procedure for negotiating and concluding international agreements - also where it concerns the Common Foreign and Security Policy - to enable it to exercise its powers with full knowledge of the European Union's action as a whole. Interinstitutional negotiations that are to take place on improved practical arrangements for cooperation and information-sharing in the context of the negotiation and conclusion of international agreements will need to take proper account of the case law of the ECJ.

In the area of freedom, security and justice, among the most pressing challenges faced by the Union are the refugee crisis and the fight against terrorism. The recent creation of the European Border and Coast Guard, based on the experience of the Frontex agency for managing the European Union's external borders shows that there are means to improve EU's reaction to terrorism and unregulated migration within the existing legal framework. Member States should also do their part of the job, to properly implement the decisions taken.

Concerning migration, a fair and effective EU common asylum and immigration policy, based on the principles of solidarity, non-discrimination, non-refoulement, sincere cooperation among all the Member States and the protection of the fundamental rights of the migrant, should be set up.

Let me finish with some remarks on the treaty change.

The timing, scope and depth of a future treaty change needs to reflect the political will and ambition at the time of the revision and several ideas have been floating. For example, the need to formalize and/or improve the Spitzenkandidaten process for election of Commission President and further strengthening the link with the European Parliament elections. Another example could be switching in more policy areas to the ordinary legislative procedure and QMV and moving away from unanimity. It could include the possibility of introducing a special legislative procedure, requiring four-fifths of the votes in Council and a majority of Parliament's component members for the adoption of the decision on own resources (complementary to the passage to QMV for the adoption of the MFF). Also, affirming differentiated integration and maybe associate membership of the EU as a tool for achieving further integration while safeguarding the unity of the Union. Differentiation must remain open and the ultimate aim should be the inclusion of all Member States. Worth considering is changing the rules for treaty revision with a view to make it less burdensome to initiate and complete a treaty change. There are many options to consider in this context. One possibility could be a super-qualified majority for the adoption and ratification, with the changes entering into force once the threshold reached (but only for the Member States that ratified the new treaty).

To conclude my remarks I would like to emphasize that, indeed, a lot of the good can still come from a better use of existing legal framework. We have been stretching the Lisbon Treaty for years, however, The time has come to start the reflection on a new legal basis to be prepared when the moment of political will comes. The need is real and it will not go.