

Professor Danuta Hübner

“A unique community of law and its actors”

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The European Union is a community of law. It owes its existence to a constitutive legal act, not military power or external political pressure. Everything the EU does is based on the Treaties, they are the starting point for EU law. The legal order shaped by the EU is mandated in European values and is an integral part of our political and social reality.

It is worth mentioning that the legal system of the EU has naturally been inspired by many legal traditions. However, it is unlike either of them exactly. The EU system is special in its own right. That is why the EU is often referred to as a *sui generis* project - unique, existing in its own right and way.

We have learned how to bring diversity into unity and the best example of that is the law created by the EU. The EU approves on average 80 directives, 1200 regulations and 700 decisions per year. Someone counted that since 1957, the EU has adopted more than 100 000 legislative acts.

Jean-Claude Juncker’s Commission had this idea that we should limit the number of legislative acts that we are producing. I didn’t like this approach, because it’s not like someone is waking up in the morning and says “let’s have a legislative act!”. We are creating them because it is necessary for some reasons, because it’s a necessity.

However, one must admit that EU system needs to be simplified, the structure how we proceed needs to be more clear, especially for the citizens.

Looking back, we see all those Treaties of – Maastricht, Amsterdam, Nice, the failed Constitutional Treaty, which after some reworking and cutting became the Lisbon Treaty. But the last one I mentioned we signed in 2007. 15 years ago. A lot has changed since then and actually the moment for the change of Treaties has come.

Throughout the years politicians have made Treaty change some kind of taboo. I remember politicians were saying for decades that people do not want new treaties and it continuous to be kind of a slogan. Fortunately we had Conference on the Future of Europe and citizens said very clearly in their conclusions and recommendations - if there is a need, Treaties should be changed. Now we are fighting for that again. For the Convention.

An important element in the EU landscape and an important piece in the legal puzzle that I should mention now is the Court of Justice of the EU. It is the only court that can rule on the legitimacy of the EU law. CJEU has a monopoly and it protects the EU legal framework, which is constantly being put to the test and challenged more and more often by some of the member states.

What is important to realize is that we have many new legal acts. So all together – that is a lot! But this legal framework is what keeps us together. The whole legislation is crucial for the functioning of the EU, but it is also a process which is quite a complex one. And there is a whole debate: can we make it faster?

But sometimes creating a really good law takes time and when the new drafts of proposals come from the European Commission, sometimes after months of writing, we need to walk through many steps – prepare a report, work on a common position, listen to stakeholders, provide amendments and build compromises and address many more issues. Duration of the process really depends on the complexity of the text and the topic itself. On how diverse the approaches of different political groups are. Outing takes place at committees' level and in plenary. Then we negotiate with the other legislators which is the Council. Trilogues can take some time. Some proposals land on the shelf or in the drawer. The longest legislative process I remember was the one on the European Patent. Still today there are member states that remain outside this framework. So there is this risk always. Most of the legislative acts have the review clause, meaning after some years legislators might update the act or replace it with a new one.

Indeed, one thing is certain – creating European laws takes time. Not only because of the complicated process, but it also takes time to ensure that the law we finally

vote responds to the real needs. That takes me to another participant of the EU legislative process – lobbyists.

Inclusive policy making process, the right of stakeholders to be listened to in the process of legislating is a core part of a sound democratic system and interest groups can bring much needed information to the policy debate. The process is transparent, well structured, institutionalized and organized in the EU.

When I was a member of J. Barroso's first European Commission we launched the Transparency Register process, and then as a EP rapporteur I was negotiating Interinstitutional agreement on a mandatory transparency register for the three European institution: the Parliament, the Council and the Commission.

It is based on the transparency of lobbyists and members of European Institutions. All participants of decision making process are obliged to provide information on lobbying process. MEPs also need to present a list of lobbyist with whom they met while working on a legislative act. Citizens need to know who influences the creation of the EU law. On the lists of lobbyists where there are currently more than 11 thousands representatives of interest groups, there are also many NGOs.

It is also worth remembering that while on national level there is a clear dividing line between political parties in power and those in opposition. This is not the case of the European Parliament. We have around 200 national parties divided into 7 - 8 political groups. For every legal act we need to gain support to reach a majority in favor of a given legislative solution. We have rapporteur from one political group and shadows from each of other groups, surrounded by assistants and advisors. For every legal act we need to agree on everything from scratch, on every legal act hold a majority. Majorities are not a permanent political construct like at national level. We have to build compromises which are not always the best friend of the quality of legislation.

In the past the two biggest groups - EPP and S&D had jointly a majority throughout the legislative terms. This produced disappointment among other groups. EU is based on compromises, it is a community of compromise.

Having two colegislators is a next challenge. The council has to build a joint position of twenty seven member states, and then both legislators negotiate the final version

of the law. So, stokes even the legal services of the three institutions can have slightly diverging assessments of proposed solutions. There is a growing tendency among the institutions to watch the early stage work to avoid the risk of fully diverging proposals. This is a healthy pragmatism allowing to avoid too lengthy legislative process.

As you can see there are many parties involved in the legislative process. I didn't mention the role of the national parliaments yet. They also have the time to look at any initiative of the Commission from the perspective of subsidiarity rule. But so far I don't remember anything really blocked by the national parliaments.

There is one more institution with an expanding role which I would like to mention – the European Council. It has been converted into a European institution by the Lisbon Treaty and since then its real powers have grown beyond what is in the Treaties. Herman Van Rompuy was excellent first leader of the “new” European Council, boosting, in view of many, the role of the European Council in the area of legislation. Under Donald Tusk's presidency the double track of the EU governance - coordination of national resources and decision making on the one hand, and what we used to call the community method, on the other - has shifted toward the first approach.

The European Council is not a legislative institution and members of the European Parliament have constantly raised their criticism in this context.

As you can see more than seventy years old system is not cast in stone, and there are both home grown and external challenges we have to cope with.

We are living difficult time when after pandemic crisis we had to face a clear rise of autocratic regimes globally and the Russian aggression on Ukraine. This comes on the top of climate catastrophe, continued migration challenges and, last but not least, unprecedented inflation and risks to economic activity of global economy. The European Union has reacted to these challenges with unity and commitment. We have been contributing to strengthening the world democratic family.

Unfortunately our home grown anti European illiberal leaders generate challenges rooted in lack of respect of European values and the rule of law. I think here about

Hungary and Poland. Values are enshrined in the treaties, they cannot be defined and interpreted differently in those two countries, rule of law is not for negotiations. It is our foundations. It ensures that all citizens of the Union have the same human rights.

I meet many young people who are concerned about the future. A few months ago the Conference on the Future of Europe came to conclusion. Over that year I had dozens of meetings with young concerned people who care about Europe and its future.

In the course of the Conference they worked on recommendations for Europe of tomorrow. They want to see Europe that matters in the world, shapes it. A democratic Europe. Caring about its citizens.

They were also very clear about, what used to be a European taboo, which is change of the treaties. They are pragmatic - if we need a change of the treaty we should work on a Treaty change and launch the process. Traditionally there is not much appetite in the Council or European Council for this step. The Council is not united.

President of the European Commission told us recently that the time arrived for the new convention. We need a new Treaty. We need to start the convention. The process will take some time but the first step in this direction was already made by the European Parliament call for the Convention in line with article 48 of the Treaty on the European Union.