

## The European Parliament after the Treaty of Lisbon

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### **Abstract**

The European Parliament is the only institution of the European Union, which members are elected by the citizens of the Union in direct elections, through a secret ballot on a 5 year term. Subsequent changes to the Treaties, strengthened the position of the European Parliament and increased the size of its composition. A very important change from the European Parliament, was introduced with the Maastricht Treaty. Its provisions introduced the principle of co-decision, establishing the role of this institution as equal with the Council. The Treaty of Lisbon is a relatively new document. It contributed to a major reform of the European Union, giving it a uniform structure and legal status in the international arena. The essence of this study is to investigate whether the Lisbon Treaty changed the role of the European Parliament in the institutional system of the European Union.

**Keywords:** The European Union, The European Parliament, The Treaty of Lisbon

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### Introduction

The Treaty of Lisbon, which entered into force on 1 December 2009 contributed to the reform of the European Union, giving it legal personality in the international arena. Treaty provisions also introduce important changes in the Union's institutional system, among others by improving decision-making in the EU Council, the introduction of a permanent President of the European Council or the High Representative for Foreign and Security Policy. Under the provisions of the Lisbon there has been a significant change in the powers of the European Parliament - the only body of the European Union, which members are elected by the citizens of a united Europe. This article aims to analyze the provisions of The Treaty of Lisbon on the European Parliament - its role and functions in the institutional system of the European Union.

The article was written in attempt to answer the question: Has the Treaty of Lisbon changed the fundamental role of the European Parliament in the institutional system of the European Union and how has it happened? In order to answer this question a three-stage research process will be carried out. The results can be found in different parts of the work. In addition to the text of the Treaty of Lisbon, which is the most important source of analysis there are also important publications in the field of institutional law of the European Union, an important complement to research material.

The paper consists of three parts. In each of them the author will attempt to answer specific questions. The first part focuses on the history of the European Parliament and the evolution of its composition. Relevant provisions of the Lisbon issues in this section is the allocation of seats for each Member State and the principles upon which it was made. An attempt to answer the question of whether and how the Treaty of Lisbon has changed the composition and distribution of seats in the European Parliament will be taken.

The second part is an analysis of the function of the European Parliament, among others, legislative function, creative function,

budgetary function, or function in relations with other actors in the international arena. The author will attempt to answer the following questions: What are the new features and competences acquired the EP in the light of The Treaty of Lisbon? Has the Lisbon Treaty strengthened the legislative function of the EP? Has the Parliament acquired new powers in the area of external relations? Has Parliament had an impact on the procedure of the EU budget? Has the EP gained a new control rights to the other EU institutions?

Finally, the third part of the analysis concerns the question of representative democracy in the European Union. Defined in the question of representative democracy, presents data on the rate of participation in EP elections over the years, and the results of the recent elections to the European Parliament from 2014 to 2019 term. An important supplement will be the issue of the role of national parliaments on the basis of the new Treaty. Question that will be attempted to answer in this part of the work: Has democracy been strengthened on the basis of the provisions of the Treaty of Lisbon?

The whole analysis is summarized in the conclusions. While the list of used literature can be found in the extensive bibliography.

## **I. The History of the European Parliament and Its Composition**

### ***I. 1. The History of the European Parliament***

One of the four institutions created under the Treaty of Paris from 1951 (which established the European Coal and Steel Community) was the Common Assembly. It was a common parliamentary institution for the Member States. Along with the signing of the Treaty of Rome - 25 March 1957 - the Convention on Certain Common Institutions to the European Communities was adopted. Under the Convention, parliamentary bodies of the three Communities were merged: Common Assembly of the ECSC, Parliamentary Assembly of

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the EEC, and the Parliamentary Assembly of the Euratom, and created Joint Parliamentary Assembly<sup>1</sup>. Its first meeting took place on 19th March 1958<sup>2</sup>. The name of the Parliamentary Assembly was used until March 1962, when it was changed to the European Parliament (formally name appeared only in the SEA). In 1974, at a summit in Paris (on 9 and 10 December), it was decided about direct elections to the European Parliament. It was agreed that this should be initiated from 1978. In 1975, Parliament adopted a draft of a new convention, which a year later, at a meeting of Heads of State and Government (12-13 July 1976) was finally approved. The Act was signed on 20 September 1976 and subsequently ratified by all the Member States<sup>3</sup>. Thus ended the stage at which the members of Parliament were „second-hand within their national assemblies on an advisory basis”<sup>4</sup> and began the time of strengthening of the position through the representative nature of Parliament, which is the starting point for the defense of its competence<sup>5</sup>.

The first direct elections to the European Parliament were held on July 7-10 1979. As noted by Andrzej Antoszewski and Ryszard Herbut, earlier selection of representatives procedure was characteristic for so-called. “international parliamentary assemblies.”<sup>6</sup> Because the parliament consisted of representatives elected from among the members of national parliaments and nominated by them to the mandate of the European Parliament. A mandate in the Parliament of the deputies was dual mandate. Initially, it was mandatory (dual mandate, both the European and national), then optional. In 1988, the

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<sup>1</sup> J. Maliszewska-Nienartowicz, *System instytucjonalny i prawny Unii Europejskiej*, Toruń, 2010, p. 77.

<sup>2</sup> R. Rafaelli, *The European Parliament Historical Background*, European Parliament, 2014, p. 1.

<sup>3</sup> *Ibidem*, p. 1.

<sup>4</sup> E. Barón Crespo, *Parliamentary democracy and the Treaty of Lisbon*, OPAL online paper, 2012, no. 1, p. 5.

<sup>5</sup> J. Maliszewska-Nienartowicz, *op. cit.*, p. 78.

<sup>6</sup> A. Antoszewski, R. Herbut, *Systemy Polityczne Współczesnej Europy*, Warszawa, 2008, p. 325.

EU introduced the principle incompatible mandate for Member of the European Parliament<sup>7</sup> and since the elections in 2004 there is no possibility of connecting the Euro-MP function and the function of the MP who sits in the national parliament (However for the 2009 election an exception was introduced to Ireland and the UK)<sup>8</sup>.

### ***I. 2. The Number of seats in the European Parliament in each year***

In 1958, common Parliamentary Assembly counted 142 Members. Fifteen years later, three new countries joined the community - Denmark, Ireland and the UK. Through the extension of communities increased the number of MPs to 198<sup>9</sup>. In the first direct elections to the EP in 1979, 410 deputies were elected<sup>10</sup>. Another extension, joining of Greece, increased the number of MEPs for the next 24 representatives (primarily elected by the Greek parliament, followed by direct election). In 1986 there was a further enlargement of the Community and the number of MEPs was 518 (60 seats for Spain, 24 seats for Portugal). The unification of Germany also led to the enlargement of the composition of Parliament - 567 members (in 1994). Thanks to successive enlargements, the number of MPs was growing and after the accession of Austria, Sweden and Finland, the number was up to

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<sup>7</sup> K. Kopciuch, *Status prawny deputowanego do Parlamentu Europejskiego wedle polskiego prawa*, „Polityka i społeczeństwo”, 2013, no. 2 (11), p. 48

<sup>8</sup> Direct Elections Act. *Decision and Act concerning the election of the representatives of the European Parliament by direct universal suffrage*, from 20 September 1976, in. Federal Law Gazette 1977 II, p. 733/734, last amended by Council Decision of 25 June 2002 and 23 September 2002, in. Federal Law Gazette 2003 II, p. 810; 2004 II, p. 520, art. 7, par. 2.

<sup>9</sup> E. Akçadağ, *Avrupa Parlamentosu ve Parlamentodaki Siyasal Gruplar*, accessed: <http://www.siyasaliletisim.org/pdf/avrupaparlamentosuvesiyasalgruplar.pdf> [20.11.2018], p. 2.

<sup>10</sup> European Parliament – DG Communication, *Public opinion review. European Elections 1979-2009*, 2014, p. 1.

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626. After the biggest enlargement ever in 2004 - 732 (previously it was found that the number is 700), and after joining of Bulgaria and Romania in 2007 – 785<sup>11</sup>.

In elections to the European Parliament in 2009 MPs were elected, as before, in accordance with the of the Treaty of Nice. Originally 736 members sat in the European Parliament. Their distribution is presented in the table below.

**Table 1.** *The distribution of seats in the European Parliament in accordance with the Treaty of Nice*

Member State	The number of deputies	Member State	The number of deputies	Member State	The number of deputies
Austria	17	Greece	22	Portugal	22
Belgium	22	Spain	50	Romania	33
Bulgaria	17	Netherlands	25	Slovakia	13
-	-	Ireland	12	Slovenia	7
Cypr	6	Lithuania	12	Sweden	18
Czechy	22	Luxembourg	6	Hungary	22
Denmark	13	Latvia	8	Italy	72
Estonia	6	Malta	5	United Kingdom	72
Finland	13	Germany	99		
France	72	Poland	50		
<b>TOTAL:</b>					<b>736</b>

*\*own work*

Due to the fact that provisions of the Treaty of Lisbon entered into force after elections to the European Parliament in 2009<sup>12</sup>, the transitional rules for the legislative period were established in 2009-2014. Thanks to political agreements of the European Council of 18

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<sup>11</sup>R. Rafaelli, *op.cit.*, pp. 1-2.

<sup>12</sup> The elections were held on 4-7 June 2009.

and 19 June 2009 and adopting its Declaration of 11 and 12 December 2008 it was found that “*by way of derogation from the number of seats provided for in the first subparagraph of Article 14(2) of the Treaty on European Union, the following 18 seats shall be added to the existing 736 seat*”<sup>13</sup>. Thus, the number of seats in Parliament increased for the following Member States: Austria, Bulgaria, France, Spain, the Netherlands, Latvia, Malta, Slovenia, Sweden, Poland, Italy, the United Kingdom.

**Table 2.** *The additional number of Members of the European Parliament  
(term 2009-2014)*

Member State	The number of deputies	Member State	The number of deputies	Member State	The number of deputies
Austria	2	Netherlands	1	Sweden	2
Bulgaria	1	Latvia	1	Poland	1
France	2	Malta	1	Italy	1
Spain	4	Slovenia	1	United Kingdom	1
<b>TOTAL:</b>					<b>18</b>

*\*own work*

It was also decided to withdraw from the art. 14 paragraph. 3 of the Treaty on European Union and it was decided that the Member States which have got additional seats will appoint deputies for these extra seats in the European Parliament. However, they must be elected by direct general election, in one of three indicated ways: the Member

<sup>13</sup> Protocol Amending the Protocol on Transitional Provisions Annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty Establishing the European Atomic Energy Community, OJ 2010/C 263/01, art. 2.

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State arranges for this purpose additional election, or appeals to the results of the elections of 4-7 June 2009, or appoints representatives from its national parliament<sup>14</sup>. In addition, in connection with the accession of Croatia to the European Union from 1 July 2013, until the end of the 2009-2014 term, the European Parliament counted 766 deputies.

**Table 3.** *The Number of seats in the European Parliament in the years 1958-2014*

Year	1958	1973	1979	1981	1986	1994	1995	2004	2007	2009	2014
TNoD*	142	198	410	434	518	567	626	732	785	736	754

\*own work

On the basis of a political agreement from 18-19 October 2007, which referred to the distribution of seats in the European Parliament under the Treaty of Lisbon, the number of MPs from Germany was reduced to 96 (from 99 seats, provided by the Treaty of Nice). In view of the fact that MPs in 2009 were chosen on the basis of the provisions of the Treaty of Nice, German deputies obtained 99 seats and the number was not changed until the next election in 2014. Thus, after the entry into force of the Treaty of Lisbon and the ratification of the revised Additional Protocol in 2010<sup>15</sup>, the total number of seats in the European Parliament for all Member States in the term 2009- 2014 was 754<sup>16</sup>.

#### **I. 3. The Number of seats per country in the EP after ratification of Treaty of Lisbon**

In accordance with the provisions of the Treaty of Lisbon, the European Parliament is composed of representatives of European

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<sup>14</sup> *Ibidem*, art. 1.

<sup>15</sup> Protocol *Amending the Protocol...*, *op. cit.*

<sup>16</sup> A. Kuś (ed.), *Prawo instytucjonalne Unii Europejskiej w zarysie*, Lublin, 2012, p. 136.



Union citizens, elected by universal suffrage according to the principle of degressive proportionality<sup>17</sup>, which “means that the ratio between the population and the number of seats of each Member State must vary in relation to their respective populations in such a way that each Member from a more populous Member State represents more citizens than each Member from a less populous Member State and conversely, but also that no less populous Member State has more seats than a more populous Member State”<sup>18</sup>. As Justyna Maliszewska-Nienartowicz noticed, for the first time in the Treaty it was indicated how the division of seats in the European Parliament for each Member State should look like. The number of seats per Member State is determined in proportion to the number of inhabitants. However, it is still a decreasing proportionality and the bigger the Member State is, the bigger number of citizens on one deputy there is<sup>19</sup>.

It was determined that the minimum number is six deputies for the Member State and the maximum cannot exceed ninety-six<sup>20</sup>. The total number of seats in the European Parliament from all Member States together (excluding the president) shall not be bigger than 750. Compromise on this issue was reached at the last minute by the European Council at its meeting on 18-19 October 2007. Earlier, opposition to the proposal for a new division of seats was raised by Italy and under their pressure the number of Italian MEPs was increased by one. Among 750 members one additional place was created for the President of the EP, which together made up the number of 751 deputies<sup>21</sup>.

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<sup>17</sup> Protocol *Amending the Protocol...*, *op. cit.*, art. 9a, par. 2.

<sup>18</sup> *Composition of the European Parliament*. European Parliament resolution of 11 October 2007 on the composition of the European Parliament, 2007/2169(INI), par. 5.

<sup>19</sup> J. Maliszewska-Nienartowicz, *op.cit.*, p. 83.

<sup>20</sup> A. M. Güneş, *Lizbon Antlaşması sonrasında Avrupa Birliği*, „Gazi Üniversitesi Hukuk Fakültesi Dergisi”, 2008, no. 1-2, p. 758.

<sup>21</sup> A. Kuś (ed.), *op. cit.*, p. 137.

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**Table 4.** *The distribution of seats in the European Parliament in accordance with the Treaty of Lisbon*

Member State	The number of deputies	Member State	The number of deputies	Member State	The number of deputies
Austria	18	Greece	21	Portugal	21
Belgia	20	Spain	54	Romania	32
Bulgaria	17	Netherlands	26	Slovakia	13
Croatia	11	Ireland	11	Slovenia	8
Cypr	6	Lithuania	11	Sweden	20
Czechy	21	Luxembourg	6	Hungary	21
Denmark	13	Latvia	8	Italy	73
Estonia	6	Malta	6	United Kingdom	73
Finland	13	Germany	96		
France	74	Poland	51		
<b>TOTAL:</b>					<b>750 + 1</b>

*\*own work*

At this point the attention should be paid to a certain dependence. In accordance with the provisions of the Treaty of Lisbon was to limit the maximum number of seats per Member State concerned in the EP. As it might be noticed, this only applies to Germany (reduced number of deputies from that country from 99 to 96). It is connected with changes made under qualified majority voting in the Council. Germany in terms of the so-called double majority are ranked on the first place in the “demographic test”, which also limited their range in the section of decision-making in the EP. It means that there is a direct relationship between decision-making by qualified majority in the Council, and the distribution of seats in the

European Parliament<sup>22</sup>. The decision which determines the composition of the EP is adopted unanimously by the European Council from own-initiative of the EP, and later its acceptance<sup>23</sup>. The European Council must also respect the principles of art. 9a, par. 2, which says about the number of deputies and the principle of degressive proportionality.

## **II. Functions of the European Parliament**

### ***II. 1. Legislative Function of the European Parliament after the Treaty of Lisbon***

European Union's legislation is created by the European Parliament together with the Council. This can be referred to as "bicameral structure"<sup>24</sup>. Thus, in contrast to the national parliaments, the European Parliament has no independent power to legislate and make legislative initiative<sup>25</sup>; therefore, it is not an independent legislator (except for implementing regulations pro foro interno such as the Rules of Procedure)<sup>26</sup>. This institution can only issue legal acts which are not binded as decisions, opinions or resolutions. Legal acts of the Parliament, however, may influence decisions that are taken by other

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<sup>22</sup> com. J. Maliszewska-Nienartowicz, *op.cit.*, p. 87, J. Barcz, *Unia Europejska na rozstajach. Traktat z Lizbony*, Warszawa, 2011, p. 184.

<sup>23</sup> Traktat z Lizbony zmieniający Traktat o Unii Europejskiej i Traktat Ustanawiający Wspólnotę Europejską, OJ. 2007/C 306/1, art. 9, par. 2.

<sup>24</sup> M. Shackleton, *The European Parliament the major winner of the Lisbon Treaty?*, "Maastricht Monnet Paper Series", 2011, no. 4, p. 2.

<sup>25</sup> A. Kuś (ed.), *op. cit.*, p. 145.

<sup>26</sup> M. Górka, *Rada Europejska, Parlament Europejski, Rada, Komisja i Trybunał Obrachunkowy*, in: *Institucje i prawo Unii Europejskiej. Podręcznik dla kierunków zarządzania i administracji* (wyd. 2), J. Barcz, M. Górka, A. Wyrozumska, Warszawa, 2011, p. 136.

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institutions of the European Union<sup>27</sup>. Artur Kuś notes that after the Treaty of Lisbon entered into force, the European Parliament has the right of (legislative) intermediate initiative<sup>28</sup> in accordance with art. 225 TFEU. Acted by a qualified majority of its members, it may request the Commission to submit “*any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties*”<sup>29</sup>. Thus, it can exert pressure on the Commission on coming forward with direct legislative procedure<sup>30</sup>.

In The Lisbon Treaty the procedures of creation of community law were simplified. The ordinary legislative procedure has gained the main importance (Art. 294 TFEU), which is equivalent to the co-decision procedure introduced by the Maastricht Treaty. It is used in every situation when the Treaty does not provide for a different procedure (ie, special legislative procedure) in order to adopt the legal act<sup>31</sup>. Through the Treaty of Lisbon the powers of the EP have increased for about 40 new areas. From now on the scope of the procedure, in which the European Parliament shall decide jointly with the Council, has been extended to i.a. areas such as agriculture, energy policy, or migration policy<sup>32</sup>.

According to Michael Shackleton, despite the fact that the Lisbon Treaty strengthened the status of PE and defined its role as equal to the Council, this has not changed the existing 15 years of earlier records that regulate its legislative role<sup>33</sup>. Before the entry into force of the new provisions, there were many exceptions. As a result,

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<sup>27</sup> A. Kuś (ed.), *op. cit.*, p. 145.

<sup>28</sup> *Ibidem*, p. 145.

<sup>29</sup> Wersja skonsolidowana Traktatu o Funkcjonowaniu Unii Europejskiej, OJ 2008/C 115/ 47, art. 225.

<sup>30</sup> M. Górka, *op. cit.*, p. 137.

<sup>31</sup> J. Maliszewska-Nienartowicz, *op.cit.*, p. 102.

<sup>32</sup> Parlament Europejski, *Traktat Lizboński*, accessed:

[http://europarlament.pap.pl/palio/html.run?\\_Instance=cms\\_ep.pap.pl&\\_PageID=1&\\_menuId=38&\\_nrDep=970&\\_Checksum=-2072933409](http://europarlament.pap.pl/palio/html.run?_Instance=cms_ep.pap.pl&_PageID=1&_menuId=38&_nrDep=970&_Checksum=-2072933409) [20.11.2018].

<sup>33</sup> M. Shackleton, *op. cit.*, p. 2.

both institutions had to work together. Now "bicameral structure" gives the European Parliament the right to act on equal rights with the Council in any situation when the Council/it decides by a majority of its votes. However, in the case of decisions taken unanimously by the Council, Parliament remains in the role of advisory and opinion-forming<sup>34</sup>(eg. a field of tax harmonization Art. 113 TFEU) or approving (which takes place eg. for the approval of certain international agreements in accordance with 218 of the TFEU)<sup>35</sup>. There is no doubt, however, that the scope of the areas in which Parliament operates in conjunction with the Council has been greatly increased, which has strengthened the position of the European Parliament.

## ***II. 2. The Role of the European Parliament in Adoption of the EU's Budget /Function of the Budget***

In accordance with Art. 9a, par. 1 of the Treaty of Lisbon, the European Parliament along with the Council exercise legislative and budgetary functions Both institutions form together so-called "Budgetary authority" and establish the Union's annual budget in accordance with a special legislative procedure<sup>36</sup>. Parliament's position in relation to the budgetary procedure was clearly strengthened by the Treaty of Lisbon. It now has a greater impact on the shape of the budget. The Commission shall submit the draft budget to the Parliament and the Council (not later than 1 September of the year preceding the year in which it is to be done). The Council adopts its position on the budget and then presents them to Parliament (no later than 1 October). If the Parliament approves the position of the Council within 42 days after submission of the budget, it is adopted.

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<sup>34</sup> *Ibidem*, pp. 2-3.

<sup>35</sup> M. Górka, *op. cit.*, p. 137.

<sup>36</sup> OJ 2008/C 115/ 47, art. 314.

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However, if the decision is not taken at this time, the budget is adopted as well. However, if the EP adopts amendments by a majority of its members, project in amended form will be forwarded to the Council and to the Commission (Art. 314, par. 4, letter c). In such a situation, EP President, in consultation with the President of the Council should promptly convene the Conciliation Committee (it does not come to the meeting when the Council within 10 days of the submission of the budget by Parliament adopts all the amendments and inform the Parliament). The Conciliation Committee consists of members of the Council or their representatives and an equal number of representatives of Parliament. Their common task is to reach an agreement on the draft budget within 21 days from the date of convening the Committee. The Common Position shall be taken by qualified majority of the Council members (or their representatives) and the majority of the representatives of Parliament. If the deadline comes to an agreement, the Council and the Parliament have 14 days to accept the project developed together. If during this period both parties approve the common text, or not, or if only one party approves it (and the other has not acted) the budget shall be deemed to be adopted in accordance with the generated project. However, if the Parliament (representing majority of its members) and the Council reject the common text, or if one party rejects the draft, and the other has not acted, the Commission is required to submit a new draft budget. If Parliament, acting by a majority of its members rejects the common text while the Council approves it, the Commission shall submit a new draft budget. In contrast, when Parliament approves the project, and the Council rejects it, the Parliament within 14 days from the date of rejection by the Council and acting by a qualified majority of its component members and three-fifths, to decide on the approval of some or all amendments (paragraph. 4, letter. C). However, if any of the EP amendments are not approved, the position agreed in the Conciliation Committee on the budget line is maintained. On this basis, the budget is finally adopted. The Completion of the entire

procedure is announced by the Chairman of the Parliament (Art. 314 TFEU)

## ***II. 3. The monitoring function of the EP on the basis of the Treaty of Lisbon***

The monitoring function of the EP applies particularly in the case of the Commission. Firstly, it has competence to examine the annual reports (Art. 233 TFEU), which this institution prepares. Secondly, it can give its vote of censure (art. 234 TFEU). Thirdly, it also has the right to grant (or refuse to grant) discharge. An important note is the fact that the refusal of the discharge does not result in negative legal sanctions<sup>37</sup>. Fourthly, Parliament and its members can direct oral and written questions to the Commission as a whole and for each of its members (art. 230, paragraph 2, TFEU). Fifthly, Parliament is actively involved in the selection of the Commission.

The objective of Parliament is to elect the President of the Commission<sup>38</sup>. Taking into account the results of the elections to the European Parliament, as well as conducting numerous consultations, the European Council decides by a qualified majority and it presents to the European Parliament a candidate for the position of the President of the Commission. The European Parliament shall decide on the choice of a qualified majority of the members who compose it. If the candidate does not receive enough votes to secure a majority in the European Parliament, the European Council, deciding by qualified majority, is obliged to submit within one month the proposal of a new candidate. Later, the candidate is elected by Parliament in accordance with the procedure used in the trial of first choice. However, this is not a classic choice<sup>39</sup>. Parliament is not presented with a list of candidates from which it would be able to choose one. However, in the case of its

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<sup>37</sup> J. Maliszewska-Nienartowicz, *op.cit.*, pp. 109-110.

<sup>38</sup> OJ 2007/C 306/02, art. 9a, par. 1.

<sup>39</sup> J. Maliszewska-Nienartowicz, *op.cit.*, p. 110.

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opposition to the candidacy of the Council, it must submit another candidate. European Parliament by vote, collectively approves the President of the Commission, but also the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the institution. This is the basis for the appointment of the Commission of the European Council, acting by qualified majority.

The European Parliament before taking a final decision on the approval of the members of the Commission is obliged to interview them. It is able to block the nomination of the entire Commission, if proposed candidates do not receive support<sup>40</sup>. In the past, there were situations in which the hearing of candidates resulted in subsequent changes in the composition of the Commission. In October 2004, Jose Manuel Barroso prepared composition of the Commission, which was ready to be submitted to Parliament. At the last moment he changed his decision and backed list of candidates for commissioners. He realized that a vote for him will not bring positive results. The reason for this was the proposal of the Italian candidate Rocco Buttiglione for the post of Commissioner for Justice, Freedom and Security. His person became a cause of violent opposition from Socialists and Greens who sit in the EP. Rocco Buttiglione was not hiding his Catholic views during the interrogation by members of the committee. The controversy were especially aroused by philosophical answers to questions concerning, inter alia, relation to homosexuality<sup>41</sup>. It was recognized that despite the outstanding qualifications (knowledge of 7 languages and comprehensive education including the field of law and economics), it is not suitable to serve in the area of civil rights. Similar controversies were aroused by person of Tonio Borg – Commissioner for Health and Consumer Protection in 2012-2014. The Campaign on his views on the issue of homosexuality, abortion and

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<sup>40</sup> A. Kuś (ed.), *op. cit.*, p. 146.

<sup>41</sup> A. Szwed, *Przypadek Rocco Buttiglione*, accessed: <http://www.niedziela.pl/artukul/76009/nd/Przypadek-Rocco-Buttiglione> [20.11.2018].



divorce which was directed against him<sup>42</sup>, brought no effect and he was approved as a candidate to replace the retiring John Dalli.

Its controlling functions by the European Parliament are exercised also to other institutions. In accordance with Art. 230 Parliament has the power of the Council being heard as to the performance of its duties. Members of Parliament could also ask the Council of queries. It has the same right in relation to the European Central Bank. Both the President of the ECB and the other members of the Administration may, at the request of the European Parliament (or of its own initiative), be reheard by relevant parliamentary committees (Art. 284, par. 3, paragraph 2). Questions that require written answers are published in the Official Journal of the European Union<sup>43</sup>.

The Parliament beyond the analysis of reports on the work of the Commission, (art. 287, par. 1, paragraph 2) shall also analyze the reports on the activities of the European System of Central Banks and on the monetary policy for the current and the previous year (Art. 284, par. 3). Furthermore, it may hold a general debate on the basis of these reports (after it is presented by the President of the ECB). The Court of Auditors while outside the report after the close of each financial year (Art. 287, par. 4) shall submit to the certification of accounts and the legality and regularity of operations, which are at their bases (Art. 287, par. 1, paragraph 2). Parliament may also request the Court of Auditors, opinions and comments, in the form of special reports on individual cases (Art. 287, par. 4, paragraph 2).

An important instrument in terms of control is the ability to deal with the petitions filed by citizens of the European Union, natural or legal persons whose habitual residence is in the territory of a

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<sup>42</sup> TPT/LSN, *Powtórka z Rocco Buttiglione? Katolik nie może być komisarzem UE*, accessed: <http://www.fronda.pl/a/powtorka-z-rocco-buttiglione-katolik-nie-moze-byc-komisarzem-w-ue,23608.html> [20.11.2018].

<sup>43</sup> M. Górka, *op. cit.*, p. 138

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Member State. They have the right to address the Parliament by individual or collective petitions, which relate to matters within the scope of activities of the Union, and which concern them (Art. 227 TFEU).

The European Parliament has also the ability to control through committees of inquiry. In performing its duties, Parliament may, on the basis of a proposal of one quarter of its members, set up a temporary committee of inquiry. It is without prejudice to the powers conferred by the Treaties on other institutions and bodies, to investigate allegations of contraventions or maladministration in the application of EU law (Art. 226 TFEU). With the exception of those, whose facts are being examined by the court and the court proceedings are not yet completed. The activities of its Committee of Inquiry ends with the presentation of a report. The European Parliament also specifies detailed provisions about exercising of the right of inquiry. It is established by a regulation released on its own initiative, in accordance with a special legislative procedure after obtaining the consent of the Council and the Commission<sup>44</sup>.

A sign of the EU's control in the lawmaking process is the right to bring to the Court of Justice a complaint for invalidity of Union acts and complaints for failing to act by the institutions, in terms of not fulfilling their responsibilities. The European Parliament belongs in the case to the so-called favored entities<sup>45</sup>, because its right to make this type of complaints is endless and it is not required to demonstrate their legal interest in the action.

## ***II. 4. The Creative Function***

Other important feature that The European Parliament has, is a Creative Function. In addition to the approval of the President of the

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<sup>44</sup>. OJ 2008/C 115/ 47, art. 226.

<sup>45</sup> J. Maliszewska-Nienartowicz, *op.cit.*, p. 108.

Commission and the other members of the European Parliament, after each election to the European Parliament it elects the European Ombudsman (for the period of his tenure with the possibility of re-election) (Art. 228, par. 2). The EP by means of regulations on its own initiative, but after consulting the Commission and with the approval of the Council (special legislative procedure), determines the status and general conditions of the role of the Ombudsman for Civic (Art. 228, par. 4). In addition, it may also request the Court of Justice for its dismissal, when it no longer fulfills the conditions that are necessary to exercise functions, or committed a veritable breach (Art. 228, par. 2). The Parliament is also involved in the selection of members of the Court of Auditors. A list of members in accordance with proposals of the Member States is drawn by the Council only after consultation with the Parliament (Art. 286, par. 2). It is similar in the case of the President of the European Central Bank and the other members of the management (Art. 283, par. 2). If Parliament issued a negative opinion with respect to individual candidates, President of Parliament asks the Council to withdraw its candidature and present a new<sup>46</sup>.

The provisions of the Treaty of Lisbon also take into account the importance of the role of creating the so-called specialized courts operating at Court<sup>47</sup>. Until the entry into force of the provisions of the Lisbon, Council had had only the possibility of appointing the judicial panels. Currently, acting in accordance with the ordinary legislative procedure, Parliament and the Council together have the ability to create the specialized courts at Court, which in the first instance considers cases of certain categories of complaints made in more specific areas (Art. 257 TFEU). The Parliament and the Council constitute it at the request of the Commission and after consulting the Court of Justice, or at the request of the Court of Justice after consultation with the Commission.

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<sup>46</sup> A. Kuś (ed.), *op. cit.*, p. 148.

<sup>47</sup> J. Maliszewska-Nienartowicz, *op.cit.*, pp. 110-111.

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In addition, the European Parliament in accordance with Art. 255 TFEU is involved in the selection procedure of the Committee, which deals with giving opinions on candidates for the position of judge and Advocate General of the Court of Justice and the General Court (before the appointment of the Member States). The Committee consists of seven members and the candidacy of one of them is suggested by the Parliament.

### *II. 5. The European Parliament in terms of internal relations after the entry into force of the Treaty of Lisbon*

In terms of international relations, function of Parliament is primarily the permission to participate in the procedure of concluding international agreements. Previously, the Parliament was able to issue opinions only of the accession treaties. The Treaty of Lisbon significantly strengthens its position in this matter<sup>48</sup>. Catalog of international agreements that are obligatorily given opinions by the Parliament<sup>49</sup> has been expanded to include: (1) association agreements, (2) the agreement on the European Union's accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms, (3) agreements establishing a specific institutional framework by organizing cooperation procedures, (4) agreements with important effect for the Union budget (5) agreements covering fields that use the ordinary legislative procedure or a special procedure requiring the consent of Parliament (art. 218, par. 6). The Treaty of Lisbon increased the list of areas that includes the ordinary legislative procedure. Thus, agreements that the EU will negotiate using such procedures will require a confirmation of the European

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<sup>48</sup> *Ibidem*, p. 111.

<sup>49</sup> A. Kuś (ed.), *Prawo Unii Europejskiej z uwzględnieniem Traktatu z Lizbony*, Lublin, 2010, p. 120.

Parliament<sup>50</sup>. In other cases, the Council may consult with the Parliament (optional) or take a decision itself (Art. 218, par. 6b).

The power of the Parliament's decision in light of the new powers, could be seen in connection with the SWIFT agreement. The agreement would allow the United States a more effective fight against terrorism, by providing them with access to banking transactions of citizens of the European Union. Member States agreed to sign a contract, but together with the Commission decided to submit it to the Parliament for approval. The Parliament rejected the deal, arguing that “*the bank data should be collected only in the fight against terrorism and that new legislation should ensure a balance between security measures and the protection of civil liberties*”<sup>51</sup>. MEPs also criticized the Council for that without informing Parliament began negotiations on this matter and signed the interim agreement shortly before the entry into force of the Treaty of Lisbon. The first time through the new powers of the European Parliament made a change in the international agreement, which can be regarded as a precedent event. It played a significant role in the involvement of Parliament in future negotiations (including the trade agreement with South Korea). As a result, the Parliament can become a more important player in foreign policy<sup>52</sup>.

In accordance with Art. 218, paragraph 11, the European Parliament has the right to obtain the opinion of the Court of Justice on the compatibility of the envisaged agreement with the Treaties. When the opinion of the Court proves such a contract to be negative, it cannot enter into force (unless it is amended or Tract law will be revised).

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<sup>50</sup> J. Maliszewska-Nienartowicz, *op.cit.*, pp. 111-112.

<sup>51</sup> Parlament Europejski, *Parlament w akcji: wadliwe porozumienie SWIFT do kosza*, accessed: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS+20100219STO69260+0+DOC+XML+V0//PL> [20.11.2018].

<sup>52</sup> M. Shackleton, *op. cit.*, pp. 5-6.

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**III. Parliamentary democracy in the European Union**

In accordance with Art. 8a of the Treaty of Lisbon, the European Union operates on the basis of a system of representative democracy<sup>53</sup> (in other words - indirect democracy or democracy)<sup>54</sup>. This is the basic political form, where citizens through elections delegate their representatives to rule. These representatives are a representation of the total electorate (of the country). Through legitimacy obtained from an electoral act, they pursue the public interest (in accordance with their own ideas)<sup>55</sup>.

As noted by Enrique Barón Crespo, Treaty of Lisbon significantly strengthen parliamentary democracy in the European Union<sup>56</sup>. In accordance with Art. 10 this is based on the activities of the European Union. This system is based on a direct representation of the citizens in the European Parliament and the Member States in the Council, which is the so-called dual democratic legitimacy. The Treaty of Lisbon is entering a new stage in the process of creating closer cooperation with European nations, where the decision is opened and as close to the citizen as possible<sup>57</sup> - and the principle of parliamentary democracy in this process is essential.

Representatives of citizens of the European Union who are part of the European Parliament are selected for 5 years of term in office through direct election in free and secret vote<sup>58</sup>. In this way the previous regulation of the Union has been completed (Art. 190, paragraph. 1, TEC), because earlier in the Treaty the definition of the

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<sup>53</sup> OJ 2007/C 306/02, art. 8a, par. 1.

<sup>54</sup> Encyklopedia Liberalizmu, *Demokracja przedstawicielska*, accessed: <http://www.demokraci.pl/slownik/d/29-demokracja-przedstawicielska> [20.11.2018].

<sup>55</sup> A. Antroszewski, R. Herbut (red.), *Leksykon politologii wraz z Aneksom o reformie samorządowej, wyborach do sejmu, prezydenckich oraz gabinetach rządowych*, Wrocław, 2004, p. 70.

<sup>56</sup> Enrique Barón Crespo, *op. cit.*, p. 3.

<sup>57</sup> *Ibidem*, pp. 15-16.

<sup>58</sup> OJ 2007/C 306/02, art. 9a, par. 3.

'secret and free voting" had not appeared.<sup>59</sup> (this adjustment was applied only in the EC Council Decision 2002/722 / EC amending act annexed to Decision 76/787 / ECSC).

### ***III. 1. Elections to the European Parliament***

As noted by Deloy and Bruter, election to the EP is a unique. Their uniqueness consists of the fact that they are kept at the supranational level, and the procedures which control them have a dual nature - national and European<sup>60</sup>. The Election to the European Parliament in the literature is treated as "second-order elections". It is seen by voters as election of minor importance in relation to the national elections. And it is concerned both with the nature of the election (ie, the validity of the issues dealt with) and the nature of results<sup>61</sup>. This problem is reflected with respect to rates of participation, but also in the percentage of "protest vote" completions on small consignments of radical views that have little chance in the national election<sup>62</sup>. The chart we can see below shows how the level of participation in the elections to the European Parliament from 1979 to 2014 developed.

#### **Graph 1. *The turnout in the elections to the European Parliament (1979-2014)***

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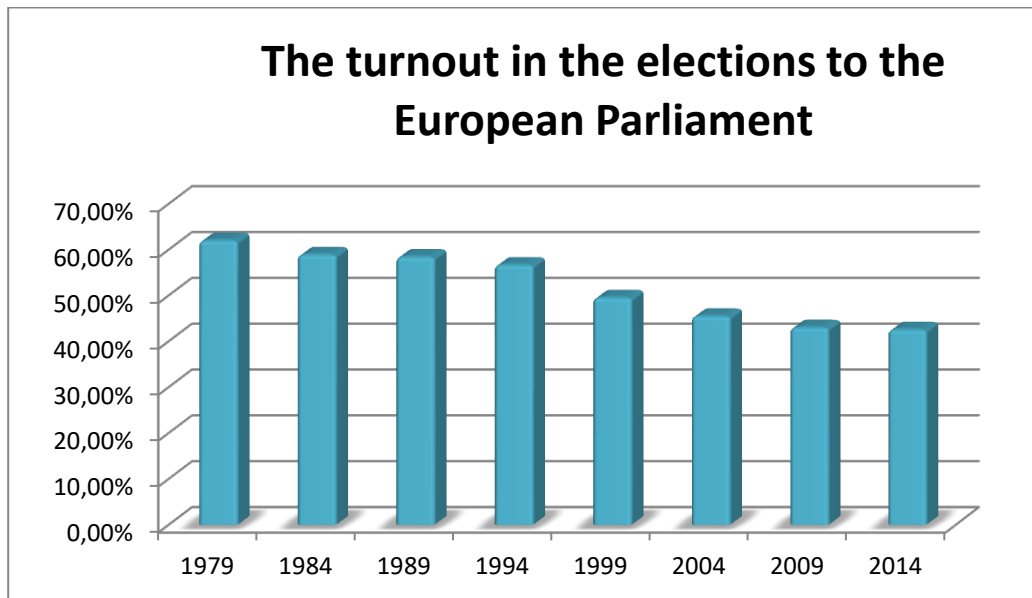
<sup>59</sup> J. Maliszewska-Nienartowicz, *op.cit.*, p. 81.

<sup>60</sup> K. Durkalec, *European Parliament after Lisbon Treaty – are we finally represented enough?*, "The Space", vol. 1, p. 34.

<sup>61</sup> A. Antoszewski, R. Herbut, *Systemy Polityczne...*, p. 325.

<sup>62</sup> *Ibidem*, p. 326.

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*\*own work*

The first elections to the European Parliament, which took place after the entry into force of the Treaty of Lisbon were held from 22 to 25 May 2014. Rates of participation for the European Union reached 42.54%. The largest percentage of voting citizens of the Member States occurred in Belgium (89.64%) and Luxembourg (85.55%), but in these countries elections are obligatory and non-participation in elections is fined with financial penalty<sup>63</sup>. A high rate of voting was also recorded in Malta (74.80%) and Italy (57.22%). The lowest rates were recorded in the "new" Member States. In Slovakia, only 13.05% of the citizens decided to go to the polls. Slightly higher rate was observed in the neighboring Czech Republic (18.20%), Slovenia (24.55%) and Poland (23.83%).

**Table 5.** *The Voter turnout in the Member States in the EP elections in 2009 and 2014*

<sup>63</sup> MAC/kka/zp, *Polska frekwencja czwarta od końca w Europie*, accessed: <http://www.tvn24.pl/wybory-do-europarlamentu,97,m/polska-frekwencja-czwarta-od-konca-w-europie,432336.html> [20.11.2018].



Member State	2009	2014	Member State	2009	2014	Member State	2009
Austria	45,97	45,39	Greece	52,61	59,97	Portugal	36,81
Belgium	90,38	89,64	Spain	44,87	43,81	Romania	27,81
Bulgaria	38,99	35,84	Netherlands	36,75	37,32	Slovakia	19,81
-	20,84*	25,24	Ireland	58,64	52,44	Slovenia	28,81
Cypr	59,4	43,97	Lithuania	20,98	47,35	Sweden	45,81
Czechy	28,22	18,20	Luxembourg	90,76	85,55	Hungary	36,81
Denmark	59,54	56,32	Latvia	53,7	30,24	Italy	65,81
Estonia	43,9	36,52	Malta	78,79	74,80	United Kingdom	34,81
Finland	38,6	39,10	Germany	43,27	48,10		
France	40,63	42,43	Poland	24,53	23,83		
<b>Total:</b>							<b>4</b>

\* Elections in 2013

\*\**own work*

It seemed that after the entry into force of the Treaty of Lisbon, which strengthened the position of the EU representative democracy, elections to the European Parliament will receive greater interest. But as it might be seen, the rate of participation is still decreasing. Especially in the "new" Member States there is a clear lack of interest in European elections. The majority of these are young democratic countries (eg. Poland), and it is not easy to give one specific reason, which has an impact on it. The problem may be, inter alia, voters' lack of education in the matter of their civil rights and conviction about lack of importance of one vote, but also the situation on the domestic political scene: lack of trust in politicians, or discourage to political parties, because they did not fulfill their campaign promises earlier<sup>64</sup>.

<sup>64</sup> M. Sacewicz, *Działania na rzecz zwiększenia odsetka osób będących czynnymi wyborcami w wyborach do sejmu i senatu*, Warszawa, 2011, p. 7.

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MEPs in the European Parliament are members of political groups. They sit in the European Parliament by a political key (membership of a parliamentary group) - not by nationality. Currently, in the European Parliament there are seven political groups: (1) Group of the European People's Party (Christian Democrats), (2) Group of the Progressive Alliance of Socialists and Democrats in the European Parliament, (3) Group of the Alliance of Liberals and Democrats for Europe, (4) European Conservatives and Reformists Group, (5) Confederal Group of the European United Left - Nordic Green Left, (6) Group of the Greens/European Free Alliance, (7) Europe of freedom and direct democracy Group.

The largest group in the European Parliament is The Group of the European People's Party (Christian Democrats) which was originally formed under the name of the Group of Christian Democrat as a political fraction in the Common Assembly of the European Coal and Steel Community (it was 23 June 1953). From the beginning this fraction has played an important role in shaping a common European policy. Its name originated in 1979<sup>65</sup>, when it was changed (with the exception of the years 1999-2009 when the name of the group was supplemented by a part European Democrats)<sup>66</sup>. The group consists of centrist and center-right parties from the Member States, which are characterized by a pro-european character including German CDU / CSU, or Italian Forza Italia (in the group of the current term 2014-2019, there is no party from the UK). The aim of the party is to strive for the grassroots, more democratic and competitive Europe, and the social market economy<sup>67</sup>. It is now the the largest political force of the European Parliament. In the eighth term election to the European

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<sup>65</sup>M. Emin Köktaş, *Avrupa Parlamentosu ve Avrupa Partileri*, „Liberal Düşünce”, 2002, no. 25-26, p. 103.

<sup>66</sup> Grupa EPP w Parlamencie Europejskim, *Nasza historia*, accessed: <http://www.eppgroup.eu/pl/history> [20.11.2018].

<sup>67</sup> Grupa EPP w Parlamencie Europejskim, *Nasza grupa*, accessed: <http://www.eppgroup.eu/pl/menu/group> [20.11.2018].

Parliament it was victorious and won 221 seats. The second position was achieved by the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament with the amount of 191 seats (25.43%). Next positions were achieved by: European Conservatives and Reformists Group - 70 seats, Group of the Alliance of Liberals and Democrats for Europe - 67 seats, Confederal Group of the European United Left - Nordic Green Left - 52 seats, Group of the Greens/European Free Alliance - 50 seats, Europe of freedom and direct democracy Group - 48 seats. The remaining space - 52 seats were given to non-attached Members<sup>68</sup>.

It is important to emphasize the fact that in the elections to the European Parliament term 2014-2019 huge success in Western Europe was achieved by Eurosceptics. In the UK, the election was won by populist UK Independence Party (UKIP) (which received 24 seats in the EP)<sup>69</sup>. This political party calls, inter alia, the UK to leave the structures of the European Union, as well as to reduce the phenomenon of migration (British reluctance to migrants may be one reason for this result)<sup>70</sup>. Also in France massive electoral success was achieved by the National Front, it was given 23 seats in the EP<sup>71</sup>. It is

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<sup>68</sup> Parlament Europejski, *Wyniki wyborów*, accessed:

<http://www.europarl.europa.eu/elections2014-results/pl/election-results-2014.html> [20.11.2018].

<sup>69</sup> Parlament Europejski, *Miejsca według państwa członkowskiego. Podział według krajowych partii i grup politycznych*, accessed:

<http://www.europarl.europa.eu/elections2014-results/pl/seats-member-state-absolut.html> [20.11.2018].

<sup>70</sup> M. Czarnecki, *Zwycięstwo eurosceptyków z UKIP w Wielkiej Brytanii to mocny sygnał ostrzegawczy [ANALIZA]*, accessed:

[http://wyborcza.pl/1,75477,16035217,Zwyciestwo\\_eurosceptykw\\_z\\_UKIP\\_w\\_Wielkiej\\_Brytanii.html](http://wyborcza.pl/1,75477,16035217,Zwyciestwo_eurosceptykw_z_UKIP_w_Wielkiej_Brytanii.html) [20.11.2018].

<sup>71</sup> Parlament Europejski, *Miejsca według...*

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the party of nationalist and xenophobic views. It is, similarly to UKIP, an opponent of the European Union and immigration<sup>72</sup>.

### *III. 2. The Treaty of Lisbon and the National Parliaments*

From the very beginning of the process of European integration, national parliaments were present. They participated in the indirect way in the internal constitutional order of the Member States, through building a prototype of the European Union by their governments or the European Community and later the European Union. National parliaments ratified, i.a., Founding Treaties and Accession Treaties. Later they led to the introduction of a European secondary legislation into national law<sup>73</sup>.

The Treaty of Lisbon outside the empowerment of the European Parliament in decision-making, also gave especially strong powers to national parliaments. They have been given additional tools that take into account the provisions of the Treaty<sup>74</sup>. In accordance with Art. 8, the letter c. The national parliaments of the Member States shall contribute actively to the good functioning of the Union. Most importantly, they shall ensure compliance with the principle of subsidiarity. They ensure compliance with the principle of subsidiarity legislative proposals that are submitted in the framework of police and judicial cooperation in criminal matters (under Protocol No. 2). National Parliaments participate even in the procedure of amending the treaties by notifications of proposals submitted previously to the Council by the governments of the Member States, the European

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<sup>72</sup> Mk, *Wybory w Europie: polityczne trzęsienie ziemi*, accessed: [http://wyborcza.pl/1,75477,16034273,Wybory\\_w\\_Europie\\_\\_polityczne\\_trzesienie\\_z\\_ieni.html#TRrelSST](http://wyborcza.pl/1,75477,16034273,Wybory_w_Europie__polityczne_trzesienie_z_ieni.html#TRrelSST) [20.11.2018].

<sup>73</sup> *Pozycja parlamentów narodowych w UE według Traktatu z Lizbony*, accessed: [http://www.parl2011.pl/prezydencja.nsf/lexi/pl\\_PozParlNar](http://www.parl2011.pl/prezydencja.nsf/lexi/pl_PozParlNar) [20.11.2018].

<sup>74</sup> J. Barcz, *Europa A'la Carte: Konsolidacja czy fragmentaryzacja Unii Europejskiej*, „Krakowskie studia Międzynarodowe”, 2012, no. 3, p. 19.

Parliament or the Commission. They also are informed about applications for accession to the European Union. Their task is to work with other national parliaments and the European Parliament in the context of inter-parliamentary cooperation<sup>75</sup>. The order also stated democratic accountability of governments to their national parliaments. This has, in view of the sovereignty and autonomy of the Member States, mainly symbolic meaning<sup>76</sup>.

## Conclusions

There is no doubt that the provisions of the Treaty of Lisbon clearly strengthened the position of the European Parliament in the institutional system of the European Union. At the same time, however, it should be noted that the role of the European Parliament after the entry into force of the Treaty of Lisbon has not changed. This is because the provisions of the Maastricht Treaty established the role of the European Parliament as equal with the Council and in the light of the new provisions this role remains unchanged. The Treaty of Lisbon, however, clearly expanded the catalog of areas in which the Parliament co-decides with the Council. From now, the Parliament has the same right to vote in approx. 40 new areas including those relating to the current affairs of the Union or the third pillar area of freedom, security and justice. The EP position has also been strengthened by new powers including intermediate legislative initiative (Art. 225 TFEU), as well as the budgetary procedure. From now, the Parliament and the Council form the so-called “The budgetary authority”.

In addition to the significant strengthening of the European Parliament's legislative function provisions of the Treaty of Lisbon expanded its powers in the matters of international agreements. Catalog of documents which require the confirmation of the EP has expanded significantly for, i.a., association agreements or agreements

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<sup>75</sup> OJ 2007/C 306/02, art. 8c.

<sup>76</sup> *Pozycja parlamentów narodowych...*

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concerning the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms. In addition, it must also agree on the issue of agreements covering fields adopted in the ordinary legislative procedure

The Treaty of Lisbon modifies also the provisions which concern the distribution of seats in the European Parliament. From now, the number of deputies per allocated to the Member State in accordance with the principle of degressive proportionality (decreasing proportionality). It was determined that the minimum number of seats in the EP attributable to a Member State may not be less than 6, and the largest no more than 96. The highest number as we might notice applies only to Germany. This situation is related to the changes made under qualified majority voting in the Council – position of Germany in the Council is the strongest, so for balance its extent of decision-making was limited in the allocation of seats in the EP.

An important change introduced under the Treaty of Lisbon is also strengthening of representative democracy. The Union is, therefore, based on a dual democratic legitimacy through direct representation of the citizens in the European Parliament and the Member States in the Council. This is a new stage in the process of creating closer cooperation with the nations of Europe, where the decision is made openly and as close to the citizen as possible. This change was also strengthened by granting new powers to the national parliaments, among others, through participation in the procedure for amending the treaties.

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