

Editor's Note

“10 Years since the Lisbon Treaty”

THE Lisbon Treaty was the controversial successor to the European Union's “Constitutional Treaty”. It was characterized by some as a compromise between the proponents and the opponents of the unification, by others as a retreat of the integration project, and by many as a step forward towards the United States of Europe. Its purpose was not only practical, namely to help the Union function more smoothly with 28 instead of 15 Member States, but mainly teleological, that is, to provide a crucial boost to the integration project by clarifying once and for all the lines between the role of the Member States and that of the Union, and strengthen the latter to cope with the challenges of the new era.

Today, ten years since its entry into force, the question of whether the Lisbon Treaty has fulfilled the aspirations that followed its adoption remains controversial. Throughout the fields of EU law, politics, economy and societies, its rules and provided solutions were not considered as adequate when the EU faced challenges such as the economic crisis, the refugee problem, the withdrawal of the UK and the rise of euro-sceptic political parties all around Europe. Nevertheless, the new structure and function of the EU, as established by the Lisbon Treaty, was the main framework that allowed for new, necessary paths to be drawn in order for solutions to be found.

The aim of the issue is to host views on the way towards the European integration that the Lisbon Treaty opened or closed during the ten years of its force, as well as on its future prospects.

In the *Theoria* part of this issue, Constantine Stephanou, Professor Emeritus at the Panteion University of Athens, initiates the debate in his essay titled "*Intégration européenne et Etats-nations: Contraintes et opportunités à la lumière des attentes des citoyens*", by analyzing how institutional reforms aimed at enhancing input legitimacy and democratic contestation have led to the emergence of political forces, which are hostile to the European project and its institutional underpinnings, while the capacity of the EU and governing elites to deal effectively with the current challenges, whether internal or external, is put into question by both opponents and supporters of the European project. Professor C. Stephanou focuses on the challenges and responses, with special reference to the decline of global governance and its consequences for the EU.

On another topic, Apostolos Samaras, PhD candidate, writes about "*The Malaise of Liberal Democracy in the EU: Heading for the 'Point of No Return'?*", examining the current problems of liberal democracy in the EU and arguing that democratic political leaderships have a duty to cooperate so that Europe returns to the path of reason. He points out that, ten years since the entry into force of the Lisbon Treaty, the Union's flaws have become worryingly visible and he describes the danger of the populist bloc getting stronger, and thus shaping the future political agenda of the Union. With that in mind, he makes the case that a new common vision for the defense of liberal democracy is needed.

Picking up the torch, Georgia Kelepouri, PhD candidate, explores in her essay titled *“Revisiting the Rule of Law in the European Context: The CJEU’s Recent Narrative in the Limelight”* how the rule of law principle is recently employed in the courtrooms of the Court of Justice of the European Union. The recent cases *“ASJP”*, *“LM”*, *“Achmea”* and *“Commission v. Poland”* are presented and analyzed as examples of how the Court endeavors to be involved in the rule of law crisis and wishes to be considered as an ultimate resort against illiberal concerns. The author supports that one can identify a slight shift in the elaboration of the rule of law as a constitutional principle, which is reconceptualized from its initial, intra-EU viewpoint to a broader, extra-EU formulation that results in accommodating national worries.

Dimitrios Avouris Kalamas, PhD candidate, presents in his essay *“The Greek Case of Fiscal Federalism after the Lisbon Treaty”* the question of whether we can consider fiscal federalism as the appropriate framework for the implementation of the principle of subsidiarity and proximity in Greece, as initially reflected in the Maastricht Treaty and reinforced by the Lisbon Agreement with the addition of the subnational dimension. By wondering whether the degree of fiscal federalism in the context of fiscal decentralization, fiscal autonomy, vertical fiscal imbalance and fiscal rules led to an improvement in Greek subnational fiscal figures during the period 2014-2017, he presents theoretical aspects of fiscal federalism and aggregated fiscal data of Greek subnational governments. His main idea is that balancing between the appropriate mixture of fiscal federalism mechanisms and the provision of public goods at a national level with respect to the geospatial particularities of Greece, should be the ultimate

priority of every government in accordance with the proximity principle to its citizens.

Konstantina Georgaki, Attorney-at-Law, LL.M., illuminates the *“EU’s Competence over Cross-Border Investment in the Post-Lisbon Era”*. She addresses how the Lisbon Treaty placed Foreign Direct Investment within the broadened framework of the Common Commercial Policy under Article 207(1) TFEU, thus introducing the EU’s exclusive competence thereon. She also focuses on how another type of (non-direct) investment, namely portfolio investment, is to be regulated, as well as on whether the EU’s competence under Article 207(1) TFEU extends to cover both extra-EU and intra-EU direct investment.

This section of the issue is concluded with the essay of Vasileios Kottas, LL.B candidate, who deals in his essay titled *“European Citizens’ Initiative: Review and Reform”* with the citizens’ involvement in the policy-making process, which has always been an important issue for the European Union. He analyzes how the values of the European Union, particularly following the Lisbon Treaty revision, are in favor of the citizens’ democratic contribution, and thus he focuses on the European Citizens’ Initiative mechanism regulated by Regulation 211/2011. In his essay he presents and evaluates the European Commission’s proposal submitted in 2017 concerning the revision of this Regulation, as well as the European Parliament’s and the Council’s positions.

In the *Praxis* section of this issue a series of judgments is presented and commented on by distinguished members of the judiciary.

In *“Removal of the Mufti and the Deputy Mufti from their Posts due to Irrevocable Criminal Conviction for Specific Offences. An*

Administrative Measure Taken on the Grounds of Public Interest - Judgement 869/2018 of the Plenary of the Council of State (Greek Supreme Administrative Court)", Nikolaos Vagionakis, Assistant Judge at the Greek Council of State, highlights the importance of the judgment and comments on its most interesting findings.

Maître des requêtes at the Greek Council of State, Zoi Theodorikakou, presents her analysis titled "*Les zones résidentielles et la procédure d'élaboration des cartes forestières: Arrêt 685/2019 du Conseil d'Etat hellénique (Assemblée Plénière)*" and analyzes this interesting judgment concerning the elaboration of the forest charts and the regulation of the residential zones.

In his article titled "*Silence is Not Always Golden: The Consent of the Judge as a Prerequisite for the Promotion to the Top-rank Posts of the Judiciary and the Meaning of Such Consent under the Constitution - Greek Council of State Judgment 435/2019 in Plenary Session*", Assistant Judge at the Greek Council of State, Alexandros Katsiotis, further explores how the Greek Supreme Administrative Court addressed some major issues regarding the conditions of admissibility and the limits of judicial review in case of an act of promotion to a top-rank post of the judiciary being challenged by the person who has been promoted.

Last but certainly not least, Stavroula Ktistaki, Judge at the Greek Council of State and Professor at the Panteion University of Athens, presents and comments on the very important judgment 535/2019 rendered by the Greek Council of State on a very important matter in her article titled "*Note sous l'arrêt du Conseil d'Etat Hellénique 535/2019: L'autorisation réglementée d'ouverture des magasins le dimanche ou la suppression du repos dominical?*".

Finally, in the *Theasis* section, two articles are featured with educated views on interesting and current themes written by Xénophon Yataganas, ex Legal Advisor in the European Commission. In the first, the author shares valuable personal knowledge and presents certain unknown and quite revealing aspects of the “Macedonia”, “Cyprus”, and “Greek-Turkish relations” files, while in the second he addresses the role of the German hegemony in the future of Europe.