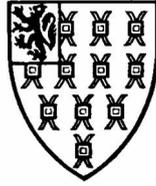


The Honourable Society of Lincoln's Inn



Sir Thomas More Lecture 2010

By

Judge Nicholas Forwood, General Court of the Court of Justice
of the European Union

“The European Judge after Lisbon: new challenges; new problems”

Judge Nicholas Forwood of the General Court of the European Union delivered the Inn's Thomas More Lecture to an audience gathered in the Great Hall on 10 November 2010. The title of Judge Forwood's lecture was “The European Judge after Lisbon: new challenges; new problems”.

Judge Forwood was called to the Bar in 1970 and took silk in 1987. He was appointed to the European Court of First Instance (the General Court's predecessor institution) in 1999.

At the outset, Judge Forwood accepted the popular criticism of the Lisbon Treaty: it was simply the Constitutional Treaty in “a new dust jacket”. Instead the central question he posed was whether its reforms represented improvements. In particular, he asked, whether European judges are now able to provide effective supervision of the European institutions.

Judge Forwood's answer was given in two parts. First, the changes introduced by the Treaty of Lisbon represented a material improvement in the judicial supervision of the Treaty institutions. However and secondly, the result of those improvements and other parallel developments, was that the European Court risked being overwhelmed by the demands placed on it. This placed at risk its ability to deliver quality and reliable judgments in a reasonable timeframe.

Judge Forwood recognised the benefits of the new single institutional framework, a structural reform which had enlarged the Court's jurisdiction and extended its supervision. For example, the Court can now give preliminary rulings in the area of freedom, security and justice without Member States having “opted-in”.

Equally welcome was the relaxation of the standing rules for direct actions, resolving the problem faced in *Jégo Quéré*. Such a liberalisation was consistent with the common legal heritage of the Member States, in particular the right of access to a court. Judge Forwood also considered the Lisbon Treaty's incorporation of the Charter of Fundamental Rights on judicial supervision of the institutions.

Whilst the Lisbon Treaty strengthened judicial supervision, Judge Forwood identified in the second part of his thesis that the reforms presented difficulties. The enlarged jurisdiction increased the Court's caseload. Parallel demands came

from the growing willingness of courts in the accession States to utilise the preliminary reference procedure. The statistics showed an increase in both the time required to dispose of a case and the backlog of pending cases.

Judge Forwood asked how the increased demands on the European Court might be met by the European judiciary. He invited discussion and appreciated the contributions from likes of the House of Lords' European Union Committee.

He advanced the proposal that the number of judges on the General Court be increased: either by larger Member States providing a second judge or by additional posts being filled on a rotating basis. He also advocated greater use of specialist panels.

It was concluded that the European Court as an institution must evolve to meet the challenges it faces. In doing so it must support Member States, European institutions and the people affected by its decisions.

Brynmor Adams, Five Paper Buildings