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Article

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THE EUROPEAN UNION'S EXTERNAL AFFAIRS POLICY – THE HIGH REPRESENTATIVE OF THE UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY – A FAVORABLE FRAMEWORK FOR CREATING A SINGLE VOICE FOR THE EUROPEAN DIPLOMATIC SYSTEM OR JUST A NEW BUREAUCRATIC STRUCTURE?

Alexandru Bogdan CALANCE*

Abstract: *Starting with the Lisbon Treaty, which establishes the new European diplomatic landscape structure, this paper analyses the difference between the objectives expressed in the treaties governing the European Union's foreign policy, and the diplomatic European and international reality. The main objective of this paper is to reveal the extent in which the European Union runs a coherent and unified foreign policy, especially highlighting the problems faced by these institutions in the current international environment, after five years since the creation of the High Representative of the Union for Foreign Affairs and Security Policy, as well as the European External Action Service. The results of this paper show that, although from a legal standpoint it was attempted to clearly outline how the Union's external policies should work, on a practical level, this area still faces difficulties in performing at its full capacity.*

Keywords: European Union; diplomacy; foreign affairs; The High Representative of the Union

Introduction

A day will come when you France, you Russia, you Italy, you England, you Germany, you all, nations of the continent, without losing your distinct qualities and your glorious individuality, will be merged closely within a superior unit and you will form the European brotherhood (...) A day will come when the only fields of battle will be markets opening up to trade and minds opening up to ideas. A day will come when the bullets and the bombs will be replaced by votes, by the universal suffrage of the peoples, by the venerable arbitration of a great sovereign senate (...) (Victor Hugo, 1849, Peace Congress in Paris).

One of the first measures taken in regard to closer cooperation in foreign affairs was the creation of the European Political Cooperation (EPC) in the 1970s, institution that came to symbolise the need for dialogue at European level (Bindi *et al.*, 2010, p.1). After a considerable number of frail attempts for setting the ground of a common policy for external affairs, only in 1986, through the Single European Act, it was specifically expressed in a European treaty the incentive to “formulate and implement a European foreign policy” (Official Journal of the European Communities, 1987, Single

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European Act, article 30, paragraph 1). The historical context was the one that offered a considerable support to the cooperation between European Communities member states. At the time when the Single European Act was signed, the bipolarity of the Cold War was starting to become more and more fragile. The signs of the Soviet's Union decline were starting to be more and more visible and if the European Union would have wanted to become a major actor on the international scene, certain measures were required.

The reforms continued in 1992 through the Maastricht Treaty, which is also known as the Treaty on European Union. This specific treaty is considered to have played a fundamental role in the Union's reform, since it was needed to adapt its structure and its definition as a European body for two reasons: the first one is represented by the natural evolution of the European community and its institutions and the second one refers to the necessity to adapt to the new political realities of the continent (considering the fall of communism in the east European countries). This treaty formally establishes the EU's Common Foreign Security Policy.

In essence, through this treaty, the foundations of the European Union are laid out, being constructed on three pillars: the European Communities, the Common Foreign and Security Policy and the Justice and Internal Affairs. We find in this treaty „the eventual framing of a common defence policy” (Official Journal of the European Communities (1992), *Treaty on European Union*, Title V, Art. J.4), which in time, would lead to a real common defence. The Treaty of Maastricht was later complemented and improved through the Amsterdam Treaty, signed on the 2nd of October 1997 and effective since May 1st, 1999 and, the needed institutional reforms of the EU enlargement process were also set out in the Nice Treaty signed on the 26th of February 2001 and entered into force on February 1st, 2003.

Subsequent discussions regarding the strengthening and development of security standards in this area were forged following the adoption of the European Security Strategy (A Secure Europe in a Better World) in 2003. The evolution and consecutive reforms have strengthened the Union's discussions towards a stronger consolidation of the European actions and identity through the creation and setting of a Constitution. Signed on 29th of October, 2004, the treaty provided a European Constitution that would replace the founding Treaties of the EU with a single fundamental text defining the powers and roles member states in relation to each other, as well as with external partners. This treaty would have been more effective if it would have establishing a stronger foreign policy coordination by creating the Position of European Union Minister for Foreign Affairs. The year 2005 was a setback for the European Union since France and the Netherlands rejected the ratification of the Constitutional Treaty by national referendum.

The deadlock created at the European Union's level was somewhat broken after the Intergovernmental Conference in October 2007, which drafted the Treaty of Lisbon which would come to increase the role of national parliaments in the decision-making process at EU level and help overcome problems caused by the rejection of the constitutional treaty.

1. The Lisbon Treaty – consolidating the European Union's role at an international level

If we are to talk about a coherent and consistent foreign policy, it is necessary to note the fact that the evolution that the European Union has had at an institutional level is reflected in its policies. Moreover, if we look strictly at the foreign affairs and security policy, the Treaty of Lisbon sets appropriate actions, thus outlining such a policy.

The EU's 1997 Treaty of Amsterdam was the first document to identify for the first time the four main CFSP instruments: *Principles and Guidelines*, which provide general political direction; *Common Strategies*, which set out objectives and means; *Joint Actions*, which address specific situations; and *Common Positions*, which define an approach to a particular matter. The Lisbon Treaty rearranges CFSP instruments into four types of *Decisions*, giving these instruments a larger and more important role in the institutional framework of the EU: (1) on the strategic objectives and interests of the EU, (2) on common positions, (3) on joint actions, and (4) on the implementing arrangements for common positions and actions.

2. Other changes brought by the Lisbon Treaty:

Making a parallel between the pre- and post- Lisbon competences in the foreign affairs domain, we can clearly observe the following institutional distribution:

Pre-Lisbon – The High Representative for Common Foreign and Security Policy (CFSP) and the The Commissioner for external relations were responsible of the European Union's external actions, each one of them having specific areas of action.

Post-Lisbon – The High Representative of the Union for foreign affairs and security policy (HR/VP) which, at the same time, is one of the Vice-Presidents of the European Commission.

The Lisbon Treaty created a new institutional system for conducting EU's external affairs. It created the HR/VP position which is supported in its actions by the European External Action Service. Moreover, it has abolished the pillar structure, and replaced it with a merged legal personality for the Union, thus transforming the perception of the EU at an international level. As we can clearly observe,

the assigning of the HR as a Commission Vice-president is meant to bring a more coherent and constructive action in the foreign affairs area.

According to the Lisbon Treaty, The High Representative's role is wide-ranging and it involves (http://eeas.europa.eu/background/high-representative/index_en.htm):

- Steering foreign policy on behalf of the EU;
- Coordinating the EU's foreign policy tools – development assistance, trade, humanitarian aid and crisis response – as the Vice-President of the European Commission;
- Building consensus between the 28 EU countries and their respective priorities – including through monthly meetings between EU foreign ministers, which she chairs;
- Attending regular meetings between leaders of EU countries in the European Council;
- Representing the EU at international forums, such as the United Nations;
- Heading the European Defense Agency and the EU Institute for Security Studies.

The Appointment of the HR/VP is made following this procedure(Treaty of Lisbon, Title II, Art. 9E, paragraph 1):

- It is made by the European Council, that decides with qualified majority (55% of the member states and 65% of the EU's population);
- Being also a VP of the European Commission, he is subject to the approval vote of the European Parliament.

Among the HR Duties we find that it (Treaty of Lisbon, Title II, Art. 9E):

- Contributes to the development of the CFSP (presents proposals to the Council and Commission);
- Implements the decisions taken;
- Representation: conducts the political dialogue with third countries and has the responsibility to express the EU positions in international organizations;
- In the Council, the HR/VP has to ensure the coherence and continuity of the works regarding the foreign affairs of the EU (it chairs the Foreign Affairs Council);
- In the Commission, is in charge with the responsibilities incumbent to the Commission in external relations domain.

Concerning the decision making process, the member states and the HR/VP have the right of initiative and the High Representative is supported in exercising this right by the Commission. The HR informs and consults on a regular basis the European Parliament regarding the implementing of CFSP. Unanimity remains the general rule to adopt a decision in the Council in matters that regard

CFSP. There are still a few exceptions in which the Council can take a decision with a qualified majority.

The EU's external policies, strategies, instruments and missions are overseen by the European External Action Service and are based on four key aims:

- They support stability;
- Promote human rights and democracy;
- Seek to spread prosperity;
- Support the enforcement of the rule of law and good governance.

The staff for the EEAS is drawn from the Commission and the Council and from the member states diplomatic services. This service can provide support to the president of the Council, the president of the Commission or other commissaries on issues regarding foreign affairs.

The Lisbon Treaty also grants the President of the European Council, the task to ensure at his level, the external representation of the EU, without inflicting prejudice to the High Representative, the same task being valid for the President of the Commission (It is not stated however the manner in which the activities should be split among these positions).

Final remarks

Having all this information put together and analysed, we can put forth a set of opportunities and problems that have been identified. Amongst the identified opportunities we can name:

- Improving visibility, effectiveness and coherence of EU action;
- Bringing together the different components of public diplomacy of the Union to a complete structure under the authority of a single person;
- Enhancing and developing the Common Security and Defense Policy due to the consistency on ways to address the priorities;
- When faced with international new crisis with the capability to act responsibly and coherently, the HR can achieve greater cohesion within the EU;
- Strengthening the role of 'eyes and ears' Union (EU delegations), which currently represents the interests of the entire Union abroad.

Although the debates are usually focused around opportunities, we can clearly observe set of issues, as well, regarding the European Foreign Affairs structure. From the identified problems, we can name the following:

- Creation of a new architecture management (President of the European Council, the High Representative, who at the same time, has a role of Vice-President in the Commission) will improve the external visibility and significance globally, but at the same time, creates confusion in the responsibility and influence between old and new positions;
- complicated procedures;
- lack of qualified personnel and depreciation of the selection procedure.

At the beginning of her mandate Federica Mogherini said: "We need to spend the next five years to shape our common policy, our common vision, our common strategy, and this is my first task for the next five years - to form a genuine common policy". In this excerpt from one of her first speeches, the High Representative, accepts and understands the reality of the moment, namely that the previous mandate had the primary task of institution building, whereas, at present, the importance of this mandate lies within the necessity to strengthen the foreign policy in order to establish coherent and comprehensive foreign actions. We can observe from the two info-graphs (regarding the number of meetings the HR/VP had during her first 100 days in office (Annex 1) and also regarding the meetings that took place at the UN General Assembly(Annex 2) on five key domains - official visits outside of EU, official visits to EU countries, bilateral high level meetings, EU institutional meetings and forums) that even with a rather weak start, we went from an average of about 1 meeting per day (the first 100 days of mandate), to an average of nearly 10 meetings per day (in the course of just 6 days within the UN General Assembly). Although the General Assembly context was more prone to meetings, we can nonetheless note that there was a strengthening of diplomatic meetings and of the ways of diplomatic actions. If her predecessor, Catherine Ashton, had as a main concern defining and strengthening diplomatic institutions in the spirit of the Lisbon Treaty, Federica Mogherini has the difficult task of shaping EU's foreign policy. Moreover, the current HR has the assignment to drive EU's external actions so that it proves to be a real global actor, while managing to establish a consensus among Member States. The meetings that took place show a growing interest in developing and increasing both internal and external partnerships. In order to have a coherent foreign affairs policy there must be enhanced the relations inside and outside of the Union, with the appropriate balance between the two spheres so that EU's actions as a global actor can always aim promptly and efficiently the core of the problem. This seems to be the road the current HR is proposing for the European Union and her actions look more determined and aimed at solving the current issues. At the same time, she is looking to offer a solid background to address and prevent future crisis.

When analyzing EU's foreign affairs, we must look at the European Union from a particular perspective: it being a unique structure, different than any other existing actor. If such a structure will continue to strengthen its Foreign Affairs institutions, under a consistent and coherent leadership, using clear procedures in its day to day activity and address policies with prevention procedures in what regards domestic and foreign crises, they could come forward with a way to deal with external issues and crises worthy of being considered an example.

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ANNEXES

Annex 1 – Info-graph for the first 100 days in office



Source: European External Action Service, available at:

http://eeas.europa.eu/top_stories/2015/infographic-100-days-mandate_en.htm

Annex 2 – Info-graph for United Nations 70th General Assembly



Source: European External Action Service, available at:

http://eeas.europa.eu/top_stories/2015/infographics_mogherini_united_nations_general_assembly_unga70_2015_en.htm