EUROPEAN FOREIGN AFFAIRS BETWEEN STATES' SOVEREIGNTY AND UNION'S COMMON POLICY

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Abstract: Starting with the adoption of the Treaty of Lisbon in 2009, the European Union has designed new institutions in charge with representing all the member states in matters of international relations with third parties. The aim of this paper is to analyse the relationship between the national foreign affairs strategies of the member states, as elements of state sovereignty, and the existence and implementation of the common security policy, as an expression of the union of states.

Key-words: security, international, strategy, European Union.

Introduction

Starting with the project of building an international organisation that would reunite and bring peace among the European states after the end of the Second World War, one of the main goals of the European Union was to define its position on the international arena as representative of the interests of its member states.

Continuing the earlier efforts to coordinate member states' foreign policies, the 1992 Treaty on European Union formally established the EU's Common Foreign and Security Policy (CFSP)[1]. CFSP deals with international issues, including issues with a security or military orientation - "high politics". Under the EU treaties, these types of political and security issues remain the prerogative of the member state governments - conceptually, in the case of CFSP, „common" means 28 sovereign governments choosing to work together to the extent that they can reach a consensus on any given policy issue[2]. The position of

[1] European Commission (2002), Common Foreign and Security Policy (CFSP) - Overview, retrieved 01.06.2016.

[2] Michael Smith (2004), Toward a theory of EU foreign policy-making: multi-level governance, domestic politics, and national adaptation to Europe's common foreign and security policy, Journal of European Public Policy Volume 11, Issue 4, 2004, p. 749.

the EU High Representative for Common Foreign and Security Policy was finally established by the Treaty of Amsterdam (1997).

However, any European policy aiming to offer the Union an international role would have to provide answers to more issues than the ones regarding representation. Some authors argue that the current and future security and defence policy, plans and measures, will have to anticipate various threats, such as natural and man made disasters, pandemics, international organised crime or various types of terrorism, the military option of some states, particularly those failing to establish stable political and economic systems, the proliferation of weapons of mass destruction and hazardous materials, and more.[3]

As Europe entered the debacle of the Kosovo War, then-NATO secretary general Javier Solana became the first „Mr. Europe". The proverbial telephone number that former US secretary of state Henry Kissinger is said to have requested „if I want to call Europe" was finally connected in October 1999[4]. This may be considered a symbol of the tension between intergovernmentalism (traditional state-to-state relations) and supranationality (the sharing of national sovereignty), which has pervaded the EU since the beginning. Yet, as some theoreticians argue[5], intergovernmentalism and supranationality are not irreconcilable; they complement rather than conflict with each other in the day-to-day operations of the EU. Nor has the relationship between intergovernmentalism and supranationality remained static over time.

The first European Security Strategy (ESS), *A Secure Europe in a Better World*, was adopted in 2003 by then fifteen EU member states.[6] It represented above all a response to strife within Europe in the aftermath of the 2003 Iraq war. Javier Solana, then EU High Representative for Foreign Affairs and Security Policy, was tasked in summer 2003 to formulate an ESS. The document would, for the first time, define shared foreign policy priorities, in order to promote coherent collective external action.

The geopolitical scope of this first ESS, which the European Council adopted on 12 December 2003, was ambitious: The European Union, it stated, was „inevitably a global player" and therefore had to be „ready to share in the responsibility for global security and in building a better world". Transnational terrorism, proliferation of weapons of mass destruction, regional conflicts, failing and failed states, and organised crime were identified as the main threats to Europe's security.[7]

The „Solana strategy", *„A Secure Europe in a Better World"*, was, in fact, a concept to be developed and translated into a mechanism that would indicate states when, where,

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[3] Reinhard Hutter (2004), Contribution to 'Victory in Europe & the Road Ahead'. Challenges of the new Dimensions of Security, p. 15.

[4] Alexandra Porumbescu (2015), The evolution of the European Union as global actor in the light of the Lisbon Treaty, AnaleleUniversitrtii din Craiova. Istorie, Anul XX, Nr. 1(27)/2015, p. 171.

[5] Desmond Dinan (2005), Ever Closer Union: An Introduction to European Integration. 3rd edition, Lynne Rienner Publishers, p.2.

[6] A secure Europe in a better world European security strategy, Brussels, adopted on 12 December 2003.

[7] Annegret Bendiek, Markus Kaim (2015), New European Security Strategy - The Transatlantic Factor, German Institute for International and Security Affairs, p. 1.

why and how the Union will act. The strategy defines the characteristics of the current security environment, the threats and challenges to the security of the European space, as well as the objectives and directions of action needed to enforce the European security.

The main threats identified by the Strategy are:

- Terrorism - Europe is both the target and the base for such threats;
- Proliferation of mass destruction weapons - the most severe potential risk to European security;
- Regional conflicts - those in the immediate vicinity: Middle East, Northern Africa, Caucasus, Transnistria - or in the remote areas;
- State instability - poor governance, corruption, abuse of power, weak institutions, lack of responsibility and civil conflicts, that corrode state authority from the inside, leading to the collapse of the states;
- Organised crime - Europe is a main target for organised crime; the international dimension of this threat include: cross-border trafficking of drugs, weapons, money, human beings, and illegal migration.

As a direct answer to these threats, the European Union defined a series of strategic objectives:

- Fighting these threats by moving the „first line of defence" outside the EU and by admitting the fact that „none of these threats is purely military, nor can it be fought only by military means". Consequently, the EU proposes a multidimensional approach of the answers to various security threats.
- Building vicinity security - major interest that the neighboring countries are well governed and administered. EU enlargement should not generate new separation lines; EU's task is to promote a circle of stable countries in the Eastern part of the Union (cooperation and dialogue with the countries in the Mediterranean area, Middle East and Caucasus; solving the Arabic-Israel conflict is also a strategic priority for the European Union).
- The international order based on efficient multilateralism - developing a strong international society, with functioning institutions, governed according to the principles of international law.

Therefore, the strategy is the institutional framework that allows the EU to have a common voice in the matters of foreign policy, reinforcing the international legitimacy of the organisation. In short, this is the mechanism and motivation that guides the evolution of the Common Defence and Security Policy (CDSP), the institutions that act in this field are already functional, offering the EU the negotiation mechanisms needed in the foreign and security policy. Applying the policy does not affect the member states' right to develop their own foreign and security policies, but provides them a supplementary way of action. Despite the functionalist theories existent so far, the governments did not seem very eager to delegate some of their attributions to supranational institutions. The main responsibility in formulating the CDSP belongs to the European Council, which defines the general principles and establishes common strategies. The institution reunites heads of states and governments of the member states. The president of the European Commission also takes part in its

meetings. The states have the possibility to follow „enforced cooperation" in the field, if it does not affect the general principles and the consistence of the common actions.

Thus USA and the EU will be able to act much better together than in competition, in the aim of protecting the democratic values. From the American point of view, increasing the military effort of the European allies is an advantage, meaning that the USA would no longer be tasked with the most important contributions in fulfilling the missions that serve the common interest.

The European Union's foreign policy system is less straightforward, as the member states have committed themselves to pursuing certain objectives together in the framework of the Common Foreign and Security Policy, but at the same time continue to run their own national foreign policies.

The European Union as actor in the international relations

One of the key notions in understanding the scale of the EU-member states relationship in the matters of foreign action is its ability to represent all the 28 European states from the legal point of view. The term „actor" defines the one who acts, whether individually, or collectively. Within the decision making process, it demands participation. Some authors argue that[8], first of all, *the actor needs to be capable of strategic action*, ability that defines the individual. In order to be considered an actor in the matter of public policies, the action needs to reflect upon a certain process of public policies.

As an international actor, the EU does not replace its 28 members - individual international actors, but rather completes their actions. The EU's status as an actor - its „actorness"[9] - is therefore not a given but an open question and indeed the subject of a lively theoretical debate. True actorness requires not only a clear identity and a self-contained decision making system, but also the competences to effect policy.[10]

Member states can look at the EU's foreign policy as a set of instruments to be used for the purposes of their own national foreign policy, but they can also perceive themselves as a constituent part of the EU as an international actor in its own right. Generally, their approach will comprehend a mix of both attitudes.[11]

Member states will look at the EU more in terms of a toolbox when priority issues of national foreign policy are concerned. Thus France, for many years - it is no longer so obvious today - used the mechanisms of the EU's foreign and development policies to assist and reinforce its own policies in West Africa; Portugal lobbied for action on its former colonies, East Timor, and the Baltic states warned their partners on Russia's bullying behavior. In these cases the member states use the EU as a diplomatic force multiplier.

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[8] Laurie Boussaguet, Sophie Jacquot, Pauline Ravinet (coord.), Dictionar de politici publice, Polirom, Iasi, 2009, p. 36.

[9] Adam Hug, 'Europe in the world. Can EU foreign policy make an impact?', The Foreign Policy Centre, London, 2013, p. 16.

[10] Gunnar Sjostedt, 'The External Role of the European Community, Farnborough', Saxon House, 1977.

[11] Adam Hug, op. cit., p. 16.

By putting the weight of the EU behind their concerns and interests they improve their chances of getting their way. Even in the ideal case, when their national policy becomes an official EU position the national foreign policy perspective will always prevail.

In the current geopolitical context, reduced military capacity and the unwillingness of the member states to underpin foreign policy with the legitimate use of force undermine the Union as a foreign policy actor. This climate hollows out both the collective military capacity of the EU and that of member states, endangering the security of EU citizens.

It is uncontested that the European Union and its member states possess a stronger global presence than ever before, above all through trade ties and delegations. Nor is there any doubt that the European Union is fundamentally affected by global developments, be they climate change, uncontrolled migration or Islamist terrorism. What would appear questionable, however, is the conclusion that the European Union has drawn in the past from this, namely, to define itself explicitly as a global actor. The crises and conflicts of 2014, including the Ukraine crisis and the evolution of the „Islamic State", have revived the question of the European Union's security impact and geopolitical horizons. One of the few positive consequences to have emerged from these crises is the strategic premium placed upon EU external action, which should be harnessed to drive the ESS process.[12]

According to Article 22 (1) of the EU Treaty[13] „the European Council shall identify the strategic interests and objectives of the Union" in the realm of EU external action. In theory, the Council is the right institution for this, as the member states are the masters of EU foreign policy. In practice, however, this is precisely why the Council is unable to take a step back, free itself of the member states' perspectives, and define the interest of the Union as a whole.

During times of crisis, foreign policy remains the domain of the individual member states. The Common Foreign and Security Policy is based on unanimous consensus among the member states. CFSP is a mechanism for adopting common principles and guidelines on political and security issues, committing to common diplomatic approaches, and undertaking joint actions.

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The European Union's foreign and security policy is essentially based on decision making by unanimity. The smallest country, Malta, has legally the same ability to promote and block policy decisions as the largest, Germany. Without strong common institutions, EU foreign policy could be conducted according to the divergent interests of the member states. Of course, in reality, some member states are „more equal than others". The process

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[12] Annegret Bendiek, Markus Kaim, op. cit., p. 4.

[13] Available at http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-5-general-provisions-on-the-unions-external-action-and-specific-provisions/chapter-1-general-provisions-on-the-unions-external-action/100-article-22.html, retrieved on May, 25th, 2016.

of making foreign policy in the EU is currently based on an unwritten bargain between the bigger countries and the rest. The bigger countries, which own the major share of the EU's assets in this area, play an informal leadership role in shaping EU foreign policy.[14]

Many analysts argue that Europe's relevance in world affairs increasingly depends on its ability to speak and act as one. The EU is currently conducting 16 operations under its Common Security and Defence Policy. To establish a more robust CSDP, EU member states have been exploring ways to increase their military capabilities and promote greater defence integration. So far, these efforts have only had limited success. Civilian missions and capabilities, however, are also central components of CSDP; the majority of CSDP missions have been civilian operations in areas such as police training and rule of law.[15]

Conclusions

The European External Action Service (EEAS) should promote a common position after carefully considering all the national, regional, and sub-regional interests which might exist in the EU, after looking at global expectations and demands, and after assessing, without illusions, the assets and instruments of the European arsenal for pursuing those interests. It should also not view general notions such as democracy, human rights, stability, and sustainability as ends but as starting points to help define strategic and operational goals that can directly lead to tangible outcomes.

A recurring theme in the debate on the European foreign policy is the legal nature of the obligations. Given its political nature and the absence of available legal procedures, the question is whether both CFSP decision making and output belong to the legal research agenda. The bottom line seems to be that the CFSP is based on obligations set by an international treaty, and that the decision-making process has to follow the rules laid down in the TEU. CFSP provisions are formulated in quite mandatory terms, setting their soft nature into perspective, regardless of the limited role the European Court of Justice is allowed to play.

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