

Gareis/Hauser/Kernic (eds.)

The European Union – A Global Actor?



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Sven Gareis
Gunther Hauser
Franz Kernic (eds.)

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Language consultant: Cathryn Backhaus

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Introduction

Sven Bernhard Gareis/Gunther Hauser/Franz Kernic

Being the world's largest economic power the European Union is still struggling to find its role as a political actor that successfully contributes to the shaping of a peaceful and stable global order conducive to free trade and commerce. Without doubt, twenty years after its creation by the Maastricht Treaty signed in February of 1992 the European Union has made remarkable progress in the field of its Common Foreign and Security Policy (CFSP) and its Common Security and Defence Policy (CSDP). The Union is actively engaged in establishing stable relationships with other international organisations and alliances, regions and countries around the globe and it is in its vital interest to maintain a peaceful global order conducive to free trade and commerce.

The European Union's new roles and ambitions in global politics and international relations have attracted much public and scholarly attention: it can be viewed as a unique and remarkable experiment in regional integration and cooperation, in which a community of twenty-seven sovereign states tries to perform as a unified actor in the pursuit of common policies and goals on the international stage. Looking at the various practical difficulties of this ambitious endeavour, however, the question remains open whether this project will in the end lead to long-term political success.

The emergence of the European Community and later the European Union in international relations has also stimulated new thoughts and approaches in International Relations theory. The established mainstream theoretical approaches of the Cold War era were suddenly confronted with a new political reality, i.e. the fact that a new type of political entity has emerged and gradually taken over a number of roles and policies that were previously solely attached to a sovereign state. Consequently new questions were raised and discussed: Do we still need to see the individual EU member states as the primary actors in global politics? How can we adequately describe the relationship between the EU and its member states with respect to the wide field of external relations, including the dimensions of foreign economic relations, global trade and foreign and security policy? What kind of an "actor" is the EU in international relations?

A wide array of answers has been given to these or similar questions in the social and political sciences and numerous scholars continue to struggle with

the problem to properly explain certain peculiarities of the European Union and its external relations. One difficulty emanates from the fact that the EU is neither a “super-state” nor a political entity totally subordinated to sovereign states. Consequently, the interplay between *intergovernmental* and *supranational* cooperation within the EU framework has attracted particular attention among both political practitioners and scholars. Other important aspects to be addressed in this context have been the status as a legal personality (which the Union gave to itself in Article 47 of the Lisbon Treaty) and the question of a minimum capacity for autonomous action in the sphere of global politics. From this special nature of the European Union result a number of theoretical and practical challenges when studying and analyzing EU external relations.

In 2012 and in the years to come the European Union and its established mechanisms are being put to the test, particularly due to the challenge of tackling Europe’s current severe economic and monetary crisis. There can be no doubt that those recent developments have weakened the Union’s position also in global politics and foreign affairs. But on the other hand this process has also contributed to an increased awareness about today’s interdependences and interconnections in a globalised world. Thus, it suddenly appears even more crucial than ever before to deepen the European structures in the field of finance and economics by enhancing intra-union solidarity as well as the responsibility and accountability of every single member state for its budget and fiscal politics. Furthermore, it becomes necessary to improve the Union’s external relations with other global powers in order to tackle the present economic crisis, that is not confined to the European realm but also affects other regions like the US or Asia.

Considering these challenges, one can even argue that this severe crisis puts additional pressure on the European Union to further develop its capacities to act more efficiently on the global stage both in terms of economics and politics. But though considerable progress has been made in the build-up of common institutions and procedures for collective external action, the European Union’s foreign, security and defence policies continue to be strictly guided by the principles of intergovernmental coordination and unanimity. Of course this limits the Union’s capacity for autonomous foreign policy action and it raises the old question of whether or not consensus can be achieved when crucial and maybe controversial foreign policy issues come to the table. So the current crisis may productively contribute to revitalizing the debate on the finality of the European integration process: Shall there emerge a strong political Union that pursues its common interests in international relations or shall Europe appear as a loose association of self-interested states that can easily be divided by powerful actors like the US or China?

In the Union’s real politics of today those superior questions, however, are somewhat insignificant. “Stabilisation” has become one of the key words

in the EU vocabulary. Strategic partnerships and joint action plans are supposed to prepare the ground and to safeguard common interests and values. The European Union and NATO share common interests in stabilizing Europe, particularly by means of integrating Russia, Ukraine, Central Asia as well as the Mediterranean countries in North Africa and in the Middle East into a wider Euro-Atlantic zone of stability. But how lasting and sustainable have those efforts been?

After all, in recent years the EU has developed its own set of foreign policy instruments which are now at its disposal with respect to conducting foreign and security policy. These instruments include diplomacy, development cooperation and partnership agreements. By signing pre-accession agreements with candidate countries, the EU also aims at exporting the *acquis communautaire* – the collection of treaties, legislation, agreements, court decisions and principles that constitute the law of the European Union – beyond its borders. In addition, it is also noteworthy to mention that the EU has been seen by other regions and countries as a potential role-model for their own regional integration projects. Especially in the case of the African Union (AU) and the Union of South American Nations (UNASUR), the EU has served as such a role-model, thus indirectly also exporting certain European values, norms and ideas.

Furthermore, the European Union has established comprehensive relationships and frameworks of cooperation with all major global players and concluded strategic partnerships with political actors of all continents. The closest ties, however, have been developed with the US, thus giving transatlantic relations a very high priority on the foreign policy agenda. In this context it must also be mentioned that 21 out of today's 27 EU states are members of NATO. Since the establishment of its Common Security and Defence Policy (CSDP) after 1999 the EU has taken some advantage of NATO's and the United Nations' rules and lessons learned to strengthen the readiness of European autonomous capabilities to plan and conduct military operations in the field of international crisis management and peacekeeping. Over the last decade, the Union has been coordinating comprehensively civilian and military crisis management together with UN, OSCE, NATO, but also with the African Union (AU) and ASEAN. The EU has become a major sponsor for AU-led peace operations and a key supporter of African security organisations (Sicurelli 2010: 33). Finally, it is also important to mention the EU engagement in the field of international law, where the Union's foreign policy clearly aims at promoting human rights and international law and "the pursuit of CFSP objectives through diplomatic and economic means" (Terzi 2010: 3).

It has become quite common to see the European Union "as a model of how states and their citizens can work together in peace and in freedom" (Mkrtchyan/Huseynov/Gogolashvili 2009: 6). Of course there are also differ-

ences in how the European Union is perceived internally and externally. These perceptions are shifting; they are frequently linked to how successful the EU appears to be in economic, political and social terms. But regardless of its limitations and weaknesses: there can be no doubt that the EU is being perceived as being increasingly active on the international scene.

At the same time, however, it also has to be stated that the Union obviously lacks internal coherence with respect to many foreign policy issues, e.g. Turkish accession to the EU, recognition of Kosovo as a state. In the Iraq crisis of 2002/3 CFSP mechanisms were paralyzed when EU members were split over the question of joining the US in their war against Saddam Hussein; in 2011 again approaches to national ambitions prevailed over common procedures when Europe was confronted with the 'Arab Spring' and the war against the Qaddafi regime in Libya. Even in the relationship with NATO, overlaps in responsibilities and controversies over strategic interests as in the crisis over Iraq (2002/3) as well as disputes between the EU and NATO countries like Turkey and Cyprus result in factual stalemates in inter-agency relations of these two most important Western institutions. Furthermore, it is very common to criticise the Union for not having a clear strategic vision for regions such as the Caucasus, the Middle East and other regions critical of world politics. In addition, it sometimes appears very difficult to evaluate the long-term impact of certain strategic partnerships concluded between the EU and other countries, particularly when it comes to the questions of a potential "payoff" for Europe and mutual benefits on both sides. A good example is the strategic partnership that the EU established with China in 2003, and which is characterised by strong trade relations on the one hand and continuing debates on intellectual property rights and import quota as well as on political issues like human rights and the Union's arms embargo against the People's Republic (see Men 2007).

Up to now, the EU primarily continues to be a "civilian power" regarding its means to exert influence in international relations. Therefore, it is frequently referred to as a "normative power", a promoter of norms such as peace, liberty, democracy, the rule of law, and respect for human rights (Terzi 2010: 3). From this perspective, the European Union again appears to be a different kind of global actor that particularly with respect to the use of military force in international politics differs significantly from the United States of America. This fact may also contribute to the globally prevailing image of the Union according to which it constantly tries – with limited success – "to appear as a unitary and effective actor in the international arena" (Sicurelli 2010: 1).

Before this background, the present volume in its 24 chapters comprehensively analyses the EU's external relations, its Common Foreign and Security Policy, institutions, procedures and fields of action and critically discusses the Union's capability to pursue its vital interests as a unified actor in world

politics. Hereto the book is structured in three main parts: The first part contains a number of contributions which focus on institutions, policy frameworks and the history of the EU's common foreign and security policy. The second part aims at studying the EU's external relations with important international institutions and organisations as well as major regional powers and states. The third and final part resembles articles which address key issues of the Union's external activities and analyze specific foreign policy areas in detail. The book's general approach is an inter-disciplinary one: Many contributions come from political science and international law but clearly put an emphasis on practical foreign policy issues rather than on theory-building. They all aim at increasing our understanding of the EU's specific profile as an actor in global politics.

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Part 1: History and Institutions

The EU's Institutional Structure Involved in Shaping Foreign and Security Policy

Gunther Hauser

Introduction

This article aims at elaborating and analyzing the main institutions involved in shaping CFSP/CSDP policy, taking into account the institutional key changes in the EU's external action after the Lisbon Treaty. When the Lisbon Treaty entered into force on December 1, 2009 the Treaty on European Union (TEU) kept the same name, and the treaty establishing the European Community became the Treaty on the Functioning of the European Union (TFEU). The Union's institutions in general shall be (Article 13 TEU): The European Parliament; the European Council; the Council; the European Commission; the Court of Justice of the European Union; the European Central Bank; and the Court of Auditors. The following institutions are involved in shaping policy in the framework of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP): the European Council; the Council; the European Commission/High Representative of the Union for Foreign Affairs and Security Policy; and the European Parliament.

Relating to Article 15 (1) TEU the “*European Council* shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.” As Article 15 (2) TEU states, the “*European Council* shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.” According to Article 15 (3) TEU

“The European Council shall meet twice every six months, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.”

Under the Lisbon Treaty, the European Council became an institution which is assisted by the General Secretariat of the Council. The staff of the General Secretariat is therefore at the President's disposal, including the Directorate for general political questions, the Legal Service, policy Directorate-Generals

(Ecofin, Environment, Justice and Home Affairs, etc.), translation services, protocol, press office, etc.

In the Lisbon Treaty, the General Affairs Council (GAC) and the Foreign Affairs Council (FAC) are the only Council formations which are laid down. The *Foreign Affairs Council* elaborates “the Union’s external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union’s action is consistent” (Article 16 (6) TEU, third sentence). There is only one *Council* of the EU, it can meet in ten different formations. The Council formations can be extended or limited in numbers by the heads of state or government. The *High Representative of the Union for Foreign Affairs and Security Policy* who is also one of the Vice-Presidents of the European Commission chairs the Foreign Affairs Council, contributes through proposals towards the preparation of the CFSP and ensures implementation of the decisions adopted by the European Council and the Council.

Article 16 (7) TEU states: “A *Committee of Permanent Representatives of the Governments of the Member States* shall be responsible for preparing the work of the Council.”

A new political figure has come on the scene since the entry into force of the Lisbon Treaty: the fixed full-time *President of the European Council*. At their informal meeting in Brussels on November 19, 2009, ahead of the entry into force of the Lisbon Treaty, EU heads of state or government agreed on the election of Mr Herman van Rompuy as the elect President. According to Article 15 (6) of the Treaty on the European Union, the President of the European Council:

- chairs it and drives forward its work;
- ensures the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
- endeavours to facilitate cohesion and consensus within the European Council;
- presents a report to the European Parliament after each of the meetings of the European Council.

The President shall also, “at his/her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.” According to Article 15 (5) TEU

“The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or

serious misconduct, the European Council can end the President's term of office in accordance with the same procedure."

As Article 42 (1) TEU states, the CSDP is an integral part of CSFP. It shall provide the Union with an operational capacity drawing on civilian and military assets. The Union may use them on missions outside the Union for peacekeeping, conflict prevention and strengthening international security in accordance with the principles of the UN Charter. Relating to CSDP operations and missions, a "*constructive abstention*" could be used by the Member States as follows in Article 31 TEU (1):

"Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously, except where this Chapter provides otherwise. The adoption of legislative acts shall be excluded.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted."

The formal role of the *European Parliament* in relation to the CFSP stems from its two main roles as stipulated in the Treaties i.e. that of political scrutiny and budgetary authority. The High Representative has a central role in ensuring the consistent and effective formulation of CSFP/CSDP. In this respect, the Lisbon Treaty tasks the High Representative to work with the European Parliament (Article 36 TEU).

The High Representative and the European External Action Service (EEAS)

At the informal meeting in Brussels on November 19, 2009, EU heads of state or government agreed on the appointment of Ms Catherine Ashton as the High Representative of the Union for Foreign Affairs and Security Policy. Ms Ashton has been appointed by the European Council with the agreement of the President of the Commission. Her term of office (five years) coincides with the Commission's term of office.

The High Representative exercises, in foreign affairs, the functions which, so far, were exercised by the six-monthly rotating Presidency, the High Representative for CFSP and the Commissioner for External Relations.

According to Articles 18 and 27 of the Treaty on the European Union, the High Representative:

- conducts the Union's common foreign and security policy (Article 18 (2) TEU);
- contributes by her proposals to the development of that policy, which she will carry out as mandated by the Council, and ensures implementation of the decisions adopted in this field (Article 18 (2) TEU);
- presides over the Foreign Affairs Council (Article 18 (3) TEU and Article 27 (1) TEU);
- is one of the Vice-Presidents of the Commission. She ensures the consistency of the Union's external action. She is responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action (Article 18 (4) TEU);
- represents the Union for matters relating to the CFSP, conducts political dialogue with third parties on the Union's behalf and expresses the Union's position in international organisations and at international conferences (Article 27 (2) TEU);
- exercises authority over the European External Action Service and over the Union delegations in third countries and at international organisations (General Secretariat of the Council of the EU 2009).

Article 18 (1) TEU states as follows:

"The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his term of office by the same procedure."

The High Representative is subject, together with the President of the Commission and the other members of the Commission, to a vote of consent by the European Parliament. In fulfilling her mandate, the High Representative is assisted by a European External Action Service (EEAS) and has authority over some 130 delegations of the Union in third countries and to international organisations. Article 27 (3) TEU constitutes the legal basis for the Council decision on the organisation and functioning of the EEAS.

The EEAS helps the High Representative ensure the consistency and coordination of the Union's external action as well as prepare policy proposals and implement them after their approval by Council. It also assists the President of the European Council and the President as well as the Members of the Commission in their respective functions in the area of external relations and shall ensure close cooperation with the Member States.

The EEAS is a service of a *sui generis* nature, separate from the Commission and the Council Secretariat (Council of the European Union 2009: 6). The EEAS has its own section in the EU budget, to which the usual budgetary and control rules will apply. 60 percent of the EEAS personnel originate from the European Commission and the Council Secretariat.

The Commission's delegations became Union delegations under the authority of the High Representative and as part of the EEAS structure. Delegations contain both regular EEAS staff (including Heads of Delegation) and staff from relevant Commission services. EU delegations work in close cooperation with diplomatic services of the Member States. They shall play a supporting role as regards diplomatic and consular protection of Union citizens in third countries. In order to enable the High Representative to conduct the CSDP, the EEAS includes the Crisis Management and Planning Directorate (CMPD), the Civilian Planning and Conduct Capability (CPCC) and the EU Military Staff (EUMS) and the Situation Centre (SitCen) (Council of the European Union 2009: 3, Hynek 2010: 4). Consultation procedures have been established between the EEAS and the services of the European Commission with external responsibilities, including those in charge of internal policies with significant external dimensions. The EU Special Representatives (EUSR) or their tasks became also part of the EEAS (ibid: 5).

According to Article 33 TEU

“The Council may, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, appoint a special representative with a mandate in relation to particular policy issues. The special representative shall carry out his mandate under the authority of the High Representative.”

With regard to CFSP/CSDP, the High Representative's core responsibility is to oversee the implementation of decisions taken by the ministerial Council of the European Union and the European Council (Article 43 (2) TEU) – the Heads of State or Government. Tasks and functions of the High Representative are: International representation of the EU, appointment of EU Special Representatives, head of the European Defence Agency, the European Union Satellite Centre, chair of the board of the European Union Institute for Security Studies (EU ISS) and of the European Security and Defence College (ESDC).

The previous office of High Representative of the CFSP was introduced on October 18, 1999 by the Amsterdam Treaty. The former NATO Secretary General Javier Solana has been the EU High Representative for CFSP since then. Solana played an important role in the establishment of the European Security and Defence Policy (ESDP), amongst others by promoting the integration of structures and resources of the Western European Union (WEU). Nevertheless, the High Representative was and remains dependent on the census of the Member States in the Council. In June 2003, the European

Council of Thessaloniki tasked Javier Solana to develop a European Security Strategy (ESS), which was adopted by the Brussels European Council in December 2003. Javier Solana was re-appointed Secretary-General (SG) of the Council in 2004. The SG assisted the Council in foreign policy matters, through contributing to the formulation, preparation and implementation of policy decisions. He acted on behalf of the Council in conducting political dialogue with third parties and helped coordinate the EU's action on the world stage. The six-monthly rotating Presidency has been in charge of chairing the External Relations Council, representing the Union in CFSP matters, implementing the decisions taken and for expressing the EU position internationally.

Council Role in CSDP

The Council is assisted in military CSDP operations by the Political and Security Committee (PSC); the European Union Military Committee (EUMC); and the European Union Military Staff (EUMS), composed of military experts seconded to the Council Secretariat by the Member States. These three political and military bodies within the Council were established by the Helsinki European Council in December 1999.

The European Council (Nice, December 7-10, 2000) decided to establish these permanent political and military structures within the Council of the European Union "in order to provide political control and strategic direction in a crisis" (Perruche 2006: 6). The PSC meets at the ambassadorial level as a preparatory body for the Council of the EU. Its main functions are keeping track of the international situation and helping to define policies within the CSDP. The PSC "prepares a coherent EU response to a crisis and exercises political control and strategic direction", however, the PSC is the linchpin of the CSDP (ibid). As the highest military body set up in the Council, the EUMC is composed of the Chiefs of Defence of the Member States, who are regularly represented by their permanent military representatives. The EUMC provides the PSC with advice and recommendations on all military matters within the EU. In parallel with the EUMC, the PSC is advised by a Committee for Civilian Aspects of Crisis Management (CIVCOM). This committee provides information, drafts and recommendations, and also expresses its opinion on civilian aspects of crisis management to the PSC (Perruche 2006: 6). The EUMS is to perform early warning, situational awareness and strategic planning within the framework of crisis management outside of the EU Member States territories. It is responsible e.g. for peace-keeping tasks, tasks of combat forces in crisis management (including peacemaking), and also for joint disarmament operations, support for third countries in combating terrorism and security sector reform (SSR). "The mis-

sion of EUMS also includes identifying European and multinational forces as well as implementing policies and decisions as directed by the European Union Military Committee” (Perruche 2006: 6). The role and tasks of the EUMS have some unique characteristics. On the one hand the EUMS is an integral part of the General Secretariat of the Council and directly attached to the High Representative of the Union for Foreign Affairs and Security Policy. On the other hand the EUMS operates under the military direction of the EUMC, by which it is assisted and to which it reports. The EUMS ensures all the necessary military expertise for the internal work within the EU, providing an early warning capability to that end. It also supports the EUMC with regard to situation assessment and military aspects of strategic planning over the full range of EU-led military operations (Perruche 2006: 6 and 7). As part of the General Secretariat, the EUMS has established relations with the Department for Peacekeeping Operations (DPKO) of the United Nations (UN). Twice a year, a joint steering committee (EU/UN) meets in either Brussels or New York to discuss points of common interests and decide on future cooperation (Perruche 2006: 9). An EU Military Staff’s liaison officer was established at the UN Headquarters in December 2008 which has already been “an interesting step in coordination of communication” for the EUFOR Tchad/RCA and EU NAVFOR Somalia missions (Hynek 2010: 2). Additionally, a permanent EU liaison cell has been created at NATO’s Supreme Headquarters Allied Powers Europe (SHAPE), and a SHAPE liaison team was situated within the EUMS in the Brussels Kortenbergh building (Perruche 2006: 9, Hynek 2010: 6). The EUMS, along with Member States, also helped for some months, had been supporting their African Union counterparts by working on the AU’s military mission in the Sudanese province of Darfur (Perruche 2006: 9).

According to Article 42 (3) TEU, Member States shall make civilian and military capabilities available to the Union for the implementation of CSDP, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the CSDP. As Article 42 (4) TEU states, decisions relating to CSDP

“shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.”

In order to operate, the Council “may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union’s values and serve its interests” (Article 42 (5) TEU). Those member States

“whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article 46. ..”

The tasks

“in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their countries” (Article 43 (1) TEU).

Relating to these tasks, the

“Council shall adopt decisions ..., defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks” (Article 43 (2) TEU).

The Council also

“may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task” Article 44 (1) TEU.

Those Member States which are participating in the task are obliged to keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those states shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

Those Member States which wish to participate in the Permanent Structured Cooperation (PESCO) and which fulfil the criteria and have made the commitments on military capabilities set out in the protocol on Permanent Structured Cooperation, “shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy” (Article 46 (1) TEU). Within three months

“the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by qualified majority after consulting the High Representative” (Article 46 (2) TEU).

“Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate” (Article 46 (5) TEU).

EC Co-Ordinated External Activities

The European Commission (EC) is fully associated within CFSP and to an extent within CSDP. Together with the respective Council bodies, the Commission is involved in the planning of CSDP missions. Currently the Commission has RELEX (external relations) representatives in the PSC, EUMC, CIVCOM, the Crisis Response Coordination Team and the Civilian-Military Cell (Civ/Mil Cell) located within the EUMS which ensures a real civilian-military cooperation from the planning phase:

“The Civ/Mil Cell including its inherent Operations Centre capacity is the first standing EU body that fully integrates military and civilian expertise. ... The Cell has significantly contributed to the planning and preparation of the ACEH Monitoring Mission, the EU Border Assistance Mission in RAFAH/GAZA, and the EU Support Action to the AU/AMIS in Darfur/Sudan...” (Brauss and Zinzius 2007).

This cell was tasked to set up an Operations Centre¹ “able to plan and to run a particular operation, in particular where a joint civil/military response is required and where no national HQ is identified” (EU Council Secretariat 2007).

The Commission is responsible for the CFSP budget financing the common administrative costs of each CSDP mission not related to defence.

Article 21 (3) TEU emphasises the role of the Council and the Commission in order to ensure consistency in the field of external actions as follows:

“The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.”

1 The Operations Centre is non-standing. The UK together with other EU Member States strongly opposes the creation of a standing structure to provide for autonomous planning. The compromise was to create a core staff unit, the Operations Centre, which would be activated in cases where neither the recourse to NATO command and control (C2) structures nor national Operation Headquarters (OHQ) would be available options (Gebhard 2009: 12).

The Commission itself is completely independent of national governments, so the Members of the Commission are committed to acting in the interests of the Union and not taking instructions from national governments. A new Commission is appointed every five years.

The European Commission has four main roles:

- to propose new laws to Parliament and the Council;
- to manage the EU's budget and allocate funding;
- to enforce EU law (jointly with the Court of Justice);
- to represent the EU on the international stage, "for example by negotiating agreements between the EU and other countries" (European Commission 2011a).

Officials of the Commission are participating at the European External Action Service (EEAS). On October 30, 2009 the European Council agreed on guidelines for the new European External Action Service – EEAS (doc. 14930/09). According to the guidelines, the EEAS will be a single service under the authority of the High Representative of the European Union for Foreign Affairs and Security Policy, who is one of the Vice-Presidents of the European Commission (General Secretariat of the Council of the EU 2009). The High Representative conducts the Union's CFSP and contributes to the development of that policy and ensures implementation of the decisions adopted in this field.

The European Commission is divided into several departments known as Directorates-General (DGs), so five DGs are involved in external relations: Enlargement (ELARG), EuropeAid Development & Cooperation (DEVCO), Foreign Policy Instruments Service (EEAS), Humanitarian Aid (ECHO) and Trade (TRADE).

On January 3, 2011 *DG Development and Cooperation Directorate General – EuropeAid* (DEVCO) started work in order to design European development policy and to deliver aid throughout the world. DEVCO brought together the two former DGs Development and EuropeAid and

"reinforces the ability of the EU to design state-of-the-art development policy for all developing countries, and enhances policy coherence for development while further improving implementation and delivery mechanisms. It also defines the future development policy drawing from the objectives of the EU's Green Paper on development policy and contributes to global challenges ahead. ... It acts as the single contact point for stakeholders both inside and outside the EU, but also for the European External Action Service (EEAS), and for all sectoral DGs of the European Commission" (European Commission 2011b).

DEVCO works with international organisations like the United Nations, the Organisation for Economic Cooperation and Development (OECD) and the World Bank, among others. Valued partners of DEVCO are civil society or-

ganisations, “they also help boost citizen participation and good governance” (European Commission 2011c). DEVCO is also heading coordination of its activities with national parliaments of the EU Member States “because they play an important role in shaping and overseeing EU development policy and funding. This ensures that activities at the EU and national level complement each other” (ibid).

In the context of citizen participation in third countries, the Commission runs the *European Instrument for Democracy and Human Rights* (EIDHR). EIDHR was launched in 2006 and builds upon the European Initiative (2000-2006); its “aim is to provide support for the promotion of democracy and human rights in non-EU countries” (European Commission 2011e). The key objectives of the EIDHR (budget: 1,104 million euro 2007-2013) are: strengthening the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and in consolidating political participation and representation; supporting and strengthening the international and regional framework for the protection of human rights, justice, the rule of law and the promotion of democracy (ibid). The EIDHR “can grant aid where no established development cooperation exists, and can intervene without the agreement of the governments of third countries. It can support groups or individuals within civil society defending democracy as well as intergovernmental organisations that implement the international mechanisms for the protection of human rights” (ibid).

Through *DG ECHO* which was established in 1992, the European Commission spends on average 640 million euro per year on humanitarian aid. The EU's mandate to ECHO (Regulation (CE) no 1257/96) is to provide emergency assistance and relief to the victims of natural disasters or armed conflict outside the EU. The Humanitarian Aid and civil protection department of the European Commission's (ECHO) task is to ensure goods and services get to crisis zones fast. Goods and services reach disaster areas via ECHO partners. DG ECHO is the only publicly financed department in the world solely devoted to funding the delivery of humanitarian aid and civil protection. Humanitarian action occupies a key position in the EU's external action. ECHO is the world's main player in this field. ECHO operations are financed under the budget headings specifically devoted to humanitarian aid: the EC budget Title 23 for humanitarian aid and the allocation to ACP countries for humanitarian and emergency assistance under the European Development Fund. The Commission may also ask the budgetary authority (Parliament and Council) to increase its funding by mobilising the reserve for emergency aid (tile 40), introduced by the 1992 Edinburgh European Council. Over the past years, DG ECHO's budget was systematically reinforced, either through use of the Emergency Aid Reserve (EAR), through transfers

from other budget lines within the External Aid heading or, in respect of ACP countries, by using resources from the European Development Fund (B-envelope) for amounts ranging from 71 million euro in 2001 to 177 million euro in 2008. Through ECHO funding, some 18 million people are helped each year through 200 partners (NGOs, ICRC, and UN agencies like the UNHCR and the WFP) (European Commission 2011f).

The *DG for Trade* aims at defining the trade interests of the European Union “*in both defensive and offensive terms*” (European Commission 2011d), also at monitoring and ensuring the implementation of international agreements by using the WTO dispute settlement system and the instruments for trade promotion or defence adopted by the Community (the anti-dumping and anti-subsidy rules and the trade barriers regulation (TBR)). DG for Trade shall also ensure consistency within the RELEX group between commercial policy and the Union’s general external relations policy on the one hand and the contribution of the EU to global economic governance on the other (ibid).

EP Role in Co-Decision, Overseeing and its Own Activity in CFSP/CSDP

The European Parliament consists of 751 Members of the European Parliament (MEPs) including the President of the European Parliament. The number of MEPs cannot exceed 751 and the breakdown of parliamentary seats between Member States will be degressively proportional. The Lisbon Treaty also stipulates that no Member State can have fewer than 6 or more than 96 seats:

“The European Parliament shall be composed of representatives of the Union’s citizens. They shall not exceed seven hundred and fifty in number, plus the President. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph” (Article 14 (2) TEU).

According to Article 14 (1) TEU, “The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Treaties. It shall elect the President of the Commission.” As Article 14 (3) TEU states, “The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.” Accord-

ing to Article 14 (4) TEU: "The European Parliament shall elect its President and its officers from among its members."

In particular the European Commission, the European Parliament and the Council of the European Union are involved in the decision-making process at EU level. New legislation is generally proposed by the European Commission, but it is the Council and the European Parliament that pass the laws. Directives and regulations are the main forms of EU law.

The co-decision procedure which was introduced by the Maastricht Treaty increased the influence of the European Parliament significantly. In this procedure, the Parliament shares legislative power equally with the Council. In the meantime the co-decision procedure has been used for most EU law-making. This procedure gives the European Parliament the opportunity to negotiate directly with the Council in a conciliation committee, composed of equal numbers of Council and Parliament representatives. This only happens in the event of lack of agreement on a proposal. Once this committee has reached an agreement (time limit six weeks), the text is sent once again to Parliament and the Council so that they can finally adopt it as law. The Council and the European Parliament have six weeks to adopt the bill (Folketinget 2011). The Council of Ministers (e.g. agriculture, economy, transportation, justice and home affairs) generally takes a decision by qualified majority, while the European Parliament has to approve the bill by a majority of the votes cast (*ibid*). However, if neither the Council nor the European Parliament can approve the bill within the time limit of six weeks, the proposal is automatically rejected (*ibid*). Conciliation is becoming increasingly rare. Most laws passed in co-decision are, in fact, adopted either at the first or second reading. The co-decision procedure is divided into three phases. Whether final adoption takes place during the first or second reading, or whether the proposal must go through a third reading depends on the parties' willingness to negotiate (*ibid*).

Foreign policy, security and defence are matters over which the national governments retain independent control. However, they did not pool their national sovereignty in these areas, therefore the European Parliament and the Commission play only a limited role here. The CFSP

"shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States. ... The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. ..." (Article 24 (1) TEU).

According to Article 36 TEU

"The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and

defence policy and inform it of how those policies evolve. He shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.

The European Parliament may ask questions of the Council or make recommendations to it and to the High Representative. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the common security and defence policy.”

Relating to the European External Action Service (EEAS), the European Parliament may exercise budgetary control in all questions not related to the responsibilities of the Member States. European “diplomats” could be invited to contribute hearings by the Members of the European Parliament (MEPs).

Financing CSDP

The Union’s annual budget is decided jointly by the Council and the European Parliament. According to Article 41 (2) TEU

“Operating expenditure to which the implementation of this Chapter gives rise shall ... be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.

In cases where expenditure is not charged to the Union budget, it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article 31 (31), second subparagraph, shall not be obliged to contribute to the financing thereof.”

Relating to Article (3) TEU,

“The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to Article 42 (1) and Article 43. It shall act after consulting the European Parliament.”

Civilian crisis-management operations are funded from the CFSP budget which is established following the budgetary procedure laid down for the Community budget. The Union’s CFSP budget was growing from approx. 35 million euros prior to 2004 to approx 280 million euros in 2010 (Quille 2010: 6).

Operations with military implications or defence operations cannot be financed from Community funds. For the common costs of such operations, the Council of the EU has set up a special mechanism (ATHENA) that was established on March 1, 2004 (EU Council Secretariat 2006: 1). ATHENA administers “the financing of common costs of EU operations having military or defence implications” (ibid). A review is foreseen after every operation and at least every 18 months respectively. ATHENA is managed by a Special Committee (SC) composed of representatives of EU States (contributors). The European Commission attends the SC meetings (ibid: 3).

The Operations Commander “is the authorising officer for the operation he commands. Where there is no Operations Commander, ATHENA’s administrator becomes the authority officer” (ibid: 2). Member States have the choice either to pay contributions in anticipation of a possible rapid reaction operation or to pay within five days.

The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:

- the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- the procedures for administering the start-up fund;
- the financial control procedures (Assembly of the Western European Union 2008: 31).

The High Representative shall report to the Council on the implementation of this remit (ibid). If expenditure is not charged to the Union budget, it will be generally charged to the Member States in accordance with their gross national product (unless the Council unanimously decides otherwise). The rather new aspect, which was introduced by the TEU (Lisbon) is the creation of a so-called start-up fund. Preparatory activities for the tasks referred to Article 42 (1) and 43 TEU which are not charged to the Union budget will be financed by a start-up fund made up of Member States’ contributions. The Council will then authorise the High Representative to use the fund (ibid).

Conclusions

More than one decade after the inception of the Common European Security and Defence Policy, the CSDP “presents itself as highly institutionalised and considerably matured” (Gebhard 2009: 8). However, since the first EU civilian missions and military operations, launched in 2003, the institutional development “has very often lagged behind actual operational requirements” (ibid). With the entry into force of the Lisbon Treaty in early December

2009, the EU partly renewed the chain-of-command in crisis-management in order to reduce institutional duplication and competition within the CFSP and CSDP. Particularly in the field of EU foreign and security policy, the Lisbon Treaty established the High Representative of the Union for Foreign Affairs and Security Policy which combined the former functions of the High Representative for the CFSP and of the External Affairs Commissioner, thereby reducing the possibility of inter-institutional conflict (Sicurelli 2010: 17). The office of the Presidency of the European Council has become a full-time position with an extended term of two and a half years. Policy areas that previously belonged to the second pillar remain bound by unanimity voting. But through the Lisbon Treaty, there still remains space for competition between the High Representative of the Union for Foreign Affairs and Security Policy, the President of the Commission and the strengthened President of the Council (*ibid*). However, the development from the European Security and Defence Policy (ESDP) to the Common Security and Defence Policy (CSDP) in the Lisbon Treaty is desirable to increase coherence in the EU's external action, including the EU crisis management efforts.

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