COMMON SECURITY AND DEFENCE POLICY AFTER THE LISBON TREATY - INSTITUTIONAL INNOVATIONS

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Abstract in original language

This contribution provides an overview of the institutional structures and innovations, that the EU has at its disposal to steer and implement its Common Security and Defence Policy (CSDP) after the entry into force of the Lisbon Treaty. CSDP is by no means the only policy framework through which the EU channels its support to peacebuilding. The analysis of the current institutional set-up may help to better understand potential implications for EU's peacebuilding activities.

Key words in original language

Institutional innovations, common security and defence policy, High Representative, Permanent President of the European Council European External Action Service, Political and security committee, European defence agency.

1. INTRODUCTION

The Lisbon Treaty introduced several innovations intended to make the Common Security and Defence Policy more coherent and transparent, as a result, to strengthen the EU's role as a global actor. The essential innovations in the area of the Common Security and Defence Policy (CSDP) focus upon consolidating over 10 years of experience of the European Security and Defence Policy and these are a logical consequence of the treaty reforms in Maastricht (1992), Amsterdam (1997) and Nice (2001) and political agreements such as the French-British Summit in Saint Malo (1998).

Since then, the European Union has launched a total of 26 civilian and military operations worldwide in the framework of the European Security and Defence Policy (ESDP). This rapid evolution and implementation of the ESDP, however, made institutional as well as conceptual adaptation necessary. Consequently, the Lisbon Treaty includes several substantial innovations in this field. It also relabelled the ESDP as the Common Security and Defence Policy (CSDP).

2. INSTITUTIONAL INNOVATIONS

The Lisbon Treaty has created new and long-awaited foreign policy architecture for the European Union by introducing three key innovations: *a High Representative for Foreign Affairs and Security*

Policy, a permanent President of the European Council and a European External Action Service.

a) The High representative (HR)

One of the main innovations of the Lisbon Treaty in the area of security and defence has been the creation of the new office of the HR. The HR conducts the CFSP[1], chairs the newly established Foreign Affairs Council[2] and is one of the Vice-Presidents of the Commission[3]. By providing the HR with this mandate, the Lisbon Treaty incorporates the former 'troika formation' – the High Representative of the CFSP, the Commissioner for External Relations and the Foreign Minister of the country holding the rotating presidency – into one position. Some have called the new HR 'triple-hatted' for taking over the areas of responsibility formerly exercised by these three actors. Others have called the HR 'double-hatted' for serving both the Council and the Commission. This section illustrates that, if one carefully observes the tasks and responsibilities of the HR under the Lisbon Treaty, notably her role in the progressive framing of a Common Defence Policy and her responsibility to conduct the CSDP, the HR is, in fact, quadruple-hatted.[4]

The Lisbon Treaty gives the new office of the HR four main tasks. Firstly, the HR is responsible for putting into effect the CFSP together with the Member States, 'using national and Union resources'. The HR exercises a right of initiative; she is mandated to submit proposals for the development of the CFSP and the CSDP and has the ability to execute these as mandated by the Council. Also, the HR is responsible for managing and implementing the policies of, and has the right to propose, and exercise authority over, EU Special Representatives In performing these tasks, the HR assumed the hat of the former High Representative for CFSP, Javier Solana.

Secondly, in her capacity as Vice-President of the Commission, the HR 'shall ensure the consistency of the Union's external action' and 'shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action'. Moreover, together with the Council, the HR ensures the unity, consistency and effectiveness of action by the Union.

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[1] Treaty of European Union, article 18.2.

[2] Treaty of European Union, article 18.3 and 27.1.

[3] Treaty of European Union, article 18.4.

[4] WOUTERS, J., BIJLMAKERS, S., MEUWISSEN, K. The EU as a Multilateral Security Actor after Lisbon: constitutional and institutional aspects, p. 18.

Thirdly, the HR presides over the Foreign Affairs Council. According to Article 27 TEU, the HR ensures the implementation of the decisions adopted by the European Council and the Council. She contributes to the development of the CFSP through her right of initiative, represents the Union for matters relating to CFSP, conducts political dialogue with third parties on the Union's behalf, and expresses the Union's position in international organizations and at international conferences. The HR also constitutes the link to the Parliament for CFSP. The position as chair of the Foreign Affairs Council was previously held by the President of the External Relations Council, the Minister of Foreign Affairs of the six-monthly rotating presidency.

Fourthly, the HR conducts the CSDP. As noted, the CSDP is an integral part of the CFSP and includes the progressive framing of a common Union defence policy when the European Council, acting unanimously, so decides. The HR may make proposals to the Council relating to CSDP. The Council can adopt decisions unanimously and may, where appropriate, propose the use of both national resources and Union instruments together with the Commission. If the EU opts to use civilian and military means in the exercise of tasks referred to in Article 42(1) TEU, the HR, acting under the authority of the Council and in close and constant contact with the PSC, shall ensure the 'coordination of the civilian and military aspects' of such tasks. In addition, the HR plays an important role in the establishment of permanent structured cooperation. Finally, the HR has assumed the duties of former HR Javier Solana as head of the European Defence Agency and has become chairman of the EDA's Steering Board, its decision-making body.[5]

b) Permanent President of the European Council

The Lisbon Treaty establishes the full-time position of the President of the European Council. The mandate of the President is to chair the European Council and drive forward its work. Moreover, he 'shall ensure the preparation and continuity' of its work and 'shall endeavour to facilitate cohesion and consensus within the European Council'. In addition the President ensures, at his level and in his capacity, the external representation of the Union on issues concerning the CFSP 'without prejudice to the powers of the High Representative'. These responsibilities imply that the President of the European Council plays a role in the formulation and implementation of aspects of CFSP. Moreover, with the Lisbon Treaty, the European Council gained the mandate to adopt by unanimity decisions on the strategic interests and objectives of the Union relating to all areas of the external action of the Union, including CFSP.

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[5] WOUTERS, J., BIJLMAKERS, S., MEUWISSEN, K. The EU as a Multilateral Security Actor after Lisbon: constitutional and institutional aspects, p. 18 - 19.

By establishing the office of President of the European Council, the Lisbon Treaty provides a clear-cut solution to the problems posed by its previous chair, the head of state or government of the Member State holding the six-month rotating presidency. Ensuring consistency and continuity under the TEU's previous arrangements proved difficult as the EU's priorities changed every six months with a new incoming presidency. The presidency combined the job in Brussels with the normal tasks as head of state. This often resulted in a lack of leadership and a lack of time to properly prepare the European Council's meetings.[6]

The new post of President of the European Council sits alongside that of the existing Presidents of the Commission and the European Parliament. The latter essentially represents that institution, whilst the Presidents of the Council and Commission share the role of representing the Union's external relations policies. Whilst President Van Rompuy chairs meetings of European Heads of State in the European Council and President Barroso presides over meetings of the College of Commissioners, the sharing of external representation duties is more uncertain. So far, the President of the Commission has had a leading role on traditional trade matters in the framework of the G8, while the President of the Council, has led on issues related to the global financial and economic crisis, including attending the newly formed G20 as well as representing the Union at President Obama's high-profile Nuclear Security Summit, in Washington in April 2010.[7]

c) European External Action Service

The European Council established the new European External Action Service (EEAS) in its Decision on 26 July 2010, after having consulted the European Parliament and having obtained the consent of the Commission.[8] The EEAS is seen as a key structure in helping the Union meet the expectations of a more visible, coherent and effective EU foreign policy following the adoption of the Lisbon Treaty.[9]

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[6] PIRIS, J. C. The Lisbon Treaty: a legal and political analysis, p. 206.

[7] QUILLE, G. The European External Action Service and the Common Security and Defence Policy (CSDP). In GRECO, E., PIROZZI, N., SILVESTRI, S. EU Crisis management: Institutions and capabilities in the making, p. 58.

[8] This happened after the General Affairs Council had reached agreement on the HR's proposal on the structure of the EEAS on April 2010 and the European Parliament had adopted the Brok report on the proposal on 8 July 2010.

[9] QUILLE, G. The European External Action Service and the Common Security and Defence Policy (CSDP). In GRECO, E., PIROZZI, N., SILVESTRI, S. EU Crisis management: Institutions and capabilities in the making, p. 55.

As a *sui generis* service separate from the Commission and the Council Secretariat, bringing together all geographical and thematic desks, the EEAS constitutes an interface between the main institutional actors of the Union's foreign policy and a source of strengthened coherence for EU external relations. The EEAS, staffed by officials from the Council Secretariat, the Commission and national diplomatic services, is destined to become the centre of information-sharing on the latest political developments outside the Union and foreign policy-making with EU institutions and ministries. Serving the HR, the President of the Council and the Commission, it could complement and harmonize their activities and contribute to horizontal and vertical coherence in European foreign policy.[10]

In designing EU external policy and implementing it at Brussels and Delegation level, the EEAS is one of the main actors responsible for the EU's response to conflict. The EEAS contributes to the programming and management cycle of the following instruments:

a) Development Cooperation Instrument (DCI),
b) European Development Fund (EDF),
c) European Instrument for Democracy and Human Rights (EIDHR)
d) European Neighbourhood and Partnership Instrument (ENPI)
e) Instrument for Stability (IfS), regarding assistance provided for in Article 4 TEU (Assistance in the context of stable conditions for co-operation) which is the only part of the IfS that is formally programmed
f) Instrument for Cooperation with Industrialised Countries
g) Instrument for Nuclear Safety Cooperation

Regarding the abovementioned instruments, the EEAS is responsible for the preparation of:

a) country and regional funding allocation to determine the global financial envelope
b) country and regional strategy papers
c) national and regional indicative programmes

The EEAS works with the relevant Commission services throughout the whole cycle of programming, planning and implementation of the abovementioned instruments. As this is a new process that came about with the establishment of the EEAS, it is not yet clear how this co-operation will be organised in practice. The EEAS is also involved in

[10] GASPERS, J. The quest for European foreign policy consistency and the Treaty of Lisbon. In Humanitas Journal of European Studies, 2(1), p. 33.

implementing the EU‘s response to conflict, either through its headquarters in Brussels or the 136 EU delegations worldwide.[11]

The EEAS is also responsible for communication and public diplomacy in third countries, drafting country and regional strategy papers, and election observation missions. Furthermore, the EEAS, in co-operation with the Commission’s services, is involved in the programming, planning and management of relevant funding instruments, such as the Instrument for Stability and the European Instrument for Democracy and Human Rights.

EEAS Crisis Management Structures

The EEAS now includes all the Crisis Management Structures which were previously in the Council Secretariat. They fall under the direct authority of the HR. In December 2008, the Council decided to merge into a single directorate the *Crisis Management Planning Directorate* (CMPD), which is responsible for the politico-strategic planning level of CSDP civilian missions and military operations, as well as for their strategic review. Despite the higher number of civilian missions deployed to date, planners with military background in the CMPD outnumber those with a civilian background.[12]

Established in 2007, the *Civilian Planning Conduct Capability* (CPCC) has the mandate to provide input into the Crisis Management Concepts (CMC) of civilian CSDP missions, contribute to the development of the concepts, plans and procedures for civilian missions etc. It has a staff of about sixty, including official and seconded national experts, who further coordinate advice and support civilian staff deployed in the missions (roughly three thousand men and women). The head of the CPCC is the Civilian Operations Commander who is the overall commander of all civilian Heads of Missions and reports directly to the HR and, through the HR, to the Council.

The *EU Military Staff* (EUMS), which was transferred from the Council General Secretariat to the European External Action Service in 2011, works under the direction of the Military Committee working group of the Member States Chiefs of Defence and under the authority of the HR/VP. It performs early warning, situation assessment and strategic planning for CSDP missions. It includes units liaising with the UN and NATO, and also a cell at the Supreme Head-quarters Allied Powers Europe (SHAPE) of NATO for those EU operations

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[11] Power Analysis: The EU and peace-building after Lisbon, p. 10 - 11.

[12] EPLO Briefing Paper 1/2012. Common Foreign and Security Policy structures and instruments after the entry into force of the Lisbon Treaty, p. 6.

drawing on NATO's assets and capabilities under the Berlin Plus Agreements.

The *EU Situation Centre* (SITCEN) is the EU "intelligence centre" is located in the EEAS and is the focal point of Situation Centres based in Member States as well as third countries. It monitors the international situation, with a focus on particular geographic areas and sensitive issues such as terrorism and the proliferation of weapons of mass destruction and exchanges information with the foreign, intelligence, security and defence bodies of Member States. It provides early warning, situational awareness and intelligence analysis to inform timely policy decisions under CFSP and CSDP.

3. OTHER INSTITUTIONAL INNOVATIONS

The Political and Security Committee

The Political and Security Committee (PSC) is one of the preparatory bodies of the Foreign Affairs Council. Established as a permanent body in 2001, it monitors the international situation in areas covered by CFSP, delivers opinions to the Council at the request of the Council, the HR or on its own initiative, and exercises, under the responsibility of the Council and of the HR, the political control and strategic direction of the crisis management operations stipulated in Article 43 TEU (Article 38 TEU). The PSC is usually authorized to take a number of decisions, such as to amend the planning documents, including the operation plan, the chain of command and the rules of engagement, as well as decisions to appoint the EU Operation Commander and EU Force Commander. The PSC receives military advice and recommendations on military matters from the EU Military Committee (EUMC). The EUMC is made up of Chiefs of Defence of the Member States, usually represented by their military representatives, and exercises military direction of all military activities within the EU framework. It receives support from the EU Military Staff, a permanent body essentially comprised of military personnel seconded by Member States. The Committee for Civilian Aspects of Crisis Management (CIVCOM) advises the PSC and provides policy recommendations on civilian missions and priorities.[13]

The PSC is the permanent body constituted by permanent representatives of EU Member States who are based in Brussels and who meet at ambassadorial level (the Member States' PSC Ambassadors). It is in charge of monitoring CFSP and CSDP within the Council of the EU and of exercising political control and setting the strategic direction of crisis management operations (Article 38

[13] WOUTERS, J., BIJLMAKERS, S., MEUWISSEN, K. The EU as a Multilateral Security Actor after Lisbon: constitutional and institutional aspects, p. 23.

TEU). The PSC formulates opinions on these issues at the request of the Council, the HR or on its own initiative. The PSC now has a permanent chair directly linked to the Corporate Board of the EEAS. The PSC is assisted by the Military Committee (EUMC) and the Committee for the Civilian Aspects of Crisis Management (CIVCOM).

European defence agency

The Lisbon Treaty elevates the EDA to treaty level, incorporating it in the legal framework of CSDP. The EDA was established by the Council on 12 July 2004 on the basis of a joint action (Council of the European Union 2004) 'to support the Council and the Member States in their effort to improve the EU's defence capabilities in the field of crisis management and to sustain the ESDP as it stands now and develops in the future' (Article 2). The EDA was envisaged as a 'capabilities agency' not solely concerned with defence procurement, as was the case with national armaments agencies, but also with research and development. In addition, the EDA was given an important political component, namely to direct and evaluate Member States' progress towards fulfilling their capability commitments.[14] A new joint action was adopted on 17 July 2011 to consolidate and implement Article 45(1) TEU governing the EDA, including its tasks. The HR became the new chair of the EDA. She is responsible for the overall organization and functioning of the Agency and 'shall ensure that the guidelines issued by the Council and the decisions of the Steering Board are implemented by the Chief Executive, who shall report to the Head of the Agency'. The HR chairs the EDA's Steering Board, which acts within the framework of the guidelines issued by the Council (Article 8) and can exercise the tasks defined in Article 9 of the Joint Action.[15]

These institutional innovations may have a major impact on the peace-building potential of the EU, provided that the Member States are willing to unite behind the EU and to breathe new life into a truly common foreign and security policy which pursues the preservation of peace and the prevention of conflicts as one of its major objectives. CSDP, after the Lisbon Treaty as before, is an area where decision making rests primarily with the Member States and where coordination between EU and national foreign policy priorities remains a challenge.

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[14] See: GREVI, G., HELLY, D. AND KEOHANE, D. (2009) European Security and Defence Policy. The First Ten Years, Paris: European Union Institute for Security Studies.

[15] See: EPLO Briefing Paper 1/2012. Common Foreign and Security Policy structures and instruments after the entry into force of the Lisbon Treaty, p. 11.

4. CONCLUSION

This contribution analyzed the institutional changes that were introduced by the Lisbon Treaty, examining how the novelties condition the EU's coordination, flexibility and coherence with regard to CFSP and CSDP, to assess ultimately whether the changes enhance the EU's capacity as a multilateral security actor.

The Lisbon Treaty introduced important changes to achieve a more effective and coherent CSDP. Against growing critique of the EU's ineffectiveness and incoherence in its security and defence policies, especially in the field of crisis management, much effort was spent on making these intergovernmental policies run more smoothly, improving coordination among national governments and between the Commission and the Council, and providing for more coherent decisions and implementation. For example, with the creation of the European External Action Service (EEAS) an EU body was established that is tasked to increase the effectiveness not only in EU diplomacy, but also in CSDP and crisis management. However, the Lisbon Treaty's focus on effectiveness and coherence has overshadowed the question of accountability for CSDP decisions.

The Lisbon Treaty provides the institutional ingredients for generating a higher degree of coherence in the EU's multilateral security relations. The quadruple-hatted High Representative presents a valuable tool to enhance consistency and the visibility of the EU in multilateral fora, as well as coordination between the Member States through her close engagement with all actors involved in the development and delivery of CFSP and CSDP. In practice, however, this role proves highly challenging and Catherine Ashton's ability to live up to the job has been questioned on multiple accounts. Skilful diplomacy on the part of the High Representative will be essential to harmonize national positions in the Council and to generate the necessary will for capability development in the CSDP field. As interface between the EU external actors and exercising an important coordinating role in third countries and in international organizations, the EEAS and Union delegations could prove instrumental, once fully operationalized. Whether these new players have the ability to enhance the capacity of the EU to act as a multilateral security actor is only one side of the coin. Practice today shows that EU Member States are not willing to give up their national stances when an EU position has been agreed upon. This practice has the potential to undermine the relevance of common EU positions and the effectiveness of the newly introduced actors.

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