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**The Reforms of the Lisbon Treaty on the Rotating EU Presidency:
Braking the powers of small member-states in CFSP Affairs?**

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***“The Reforms Of The Lisbon Treaty On The Rotating EU Presidency:
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Abstract: After the implementation of the Lisbon Treaty, more supranational actors are involved in the EU institutional building, affecting the role of the countries, especially in intergovernmental policies. We can identify three main reforms of the Lisbon Treaty that affect the powers of the country holding the EU Presidency in CFSP affairs: the fact that the Foreign Affairs Council is chaired by the High Representative instead of the country holding the rotating EU Presidency, the fact that the President of the European Council can combine his internal management tasks with his tasks of “external representation” of the Union and the fact that the High Representative is assisted by a “European External Action Service” (EEAS) in “fulfilling his mandate”. This paper will examine the impact of the reforms mentioned above on the role of small states holding the EU Council Presidency in CFSP affairs. Two parameters are going to be examined: a) Will the enhancement of the role of supranational actors restrict the impact of the learning process on the country holding the EU Council Presidency on CFSP affairs? b) Will the enhancement of the role of supranational actors reinforce integration in the European Union, enhancing, also the role of small EU member states?

I. Introduction

Up to the implementation of the Lisbon Treaty all member states of the European Union (EU) used to hold the Presidency of all Council formations for six months and to coordinate the required workload at the institutions in charge of the preparations (the CoRePer, the Political and Security Committee and all the working groups). The Council Presidency performs a dual role for organizational control and political mobilization (Pagoulatos & Blavoukos 2004) giving the opportunity for definition of the political priorities and influence of the EU agenda (agenda setting). The performance of the Council Presidency restricted the role of the two main supranational institutions (the European Commission and the European Parliament), increasing intergovernmentalism. However, it was argued that, after five decades of “*institutional increasing return effects*”, the Council Presidency has been considerably upgraded¹.

The functions of the Presidency of the Council in CFSP affairs included management, initiative, mediation, representation and implementation. In the second pillar, the unanimity rule was in force (and, more or less, will continue to be in force), increasing even more the influence of the member state holding the EU Council Presidency on the decision making process in comparison with the influence of the supranational institutions.

Exercising the rotating Presidency of the EU Council in CFSP affairs gives an impetus on the *learning process* of all member states, especially of the small ones. The challenge of the EU Council Presidency increases the pressure to every country for a quick modernisation of the policy-making and coordination mechanisms (Elgstrom 2003, Kavakas 2001, Koukis 2001, Pagoulatos G. and Blavoukos S. 2004).

In addition, the fact that for six months, in equal rotation, all member states hold the Presidency of the EU Council (along with the equal representation to the Commission) is *the most democratic characteristic* of the EU institutional architecture, quite significant for the small member states. Apart from the real power of influence given to each member state for six months while holding the Council Presidency, setting the agenda and representing the Union all over the world in CFSP

¹ Fernández, Ana Mar, 'Change and Stability of the EU Institutional System: the Communitarization of the Council Presidency', *Journal of European Integration*, 30: 5, 2008) 617 — 634 (p. 619).

affairs also gives a sentiment of ownership to all member states (Ioakimidis 2008, p. 63).

It should be pointed out that *small* are usually discerned from the big member states based on the population criteria. After the last enlargement of 2004/2007, Germany, the United Kingdom, France, Italy, Spain and Poland are considered as the big states and the remaining 21 states are considered as small EU member states. In general, this distinction seems to be deficient since, apart from population disparities, there are other heterogeneities among member states, as the voting weight in the Council as well as the GDP per capita of each country. The actual influence on the integration process and on EU institutions differs from policy area to policy area. “As noted by Robert Keohane, an alternative definition of a small state is ‘a state whose leaders consider that it can never, acting alone or in a small group, make a significant impact on the system’”². In CFSP affairs, the voting weight in the Council is a factor that should not be taken under consideration, since in this policy area, decisions are taken under unanimity procedure. Furthermore, the GDP per capita does not influence the performance of a country in CFSP affairs. It is argued that the power of small states is more restricted on security policy than on other policy areas, such as economy (Thorhallsson & Wivel 2006). The influence of small states in the EU security policy was marginal due to their restricted role in international relations and to their low presence in international institutions (for example in the United Nations Security Council, where only France and the UK participate). Therefore, it seems that, in CFSP affairs, the population criterion in order to distinguish the small from the big member states is valid.

After the implementation of the Lisbon Treaty, more supranational actors are involved in the EU institutional building, modifying the role of the countries. Three main reforms of the Lisbon Treaty affect the powers of the country holding the EU Presidency in CFSP affairs: the fact that the Foreign Affairs Council is chaired by the High Representative, instead of the country holding the rotating EU Presidency, the fact that the President of the European Council can represent the Union externally and the fact that the High Representative is assisted by a European External Action Service (EEAS).

² Thorhallsson B. & Wivel A., “Small States in the European Union: What Do We Know and What Would We Like to Know?”, Cambridge Review of International Affairs, Volume 19, Number 4, December 2006 (p. 654)

This paper tries to make a first evaluation on whether the reforms of the Lisbon Treaty on the rotating EU Presidency in CFSP affairs will circumscribe the powers of the small member states, as far as the impact of the learning process is concerned, and whether the new institutional architecture, enhancing supranationalism and integration, reinforces the role of the small member states.

II. The Lisbon reforms on the rotating EU Presidency: braking the learning process of small states in CFSP affairs?

The main conceptual characteristic of the **learning** theory is its emphasis on change. It is argued that negotiations between states are not only about redistributing power (“*zero sum games*”) but also about changing perceptions (“*positive sum games*”)³. Ernst Haas has stressed that supranational institutions create an integration network of elites that gain support and credibility from spillover processes. “*Elaborating on this idea of institutionalised actors, there are more drivers for change, particularly the rotating presidency that has been a source of semi-supranational leadership alongside the Commission as well as the interconnected non-governmental organizational networks*”⁴. A rationalist approach conceives of the Council Presidency as a strategic actor who, in the framework of its institutional role, is seeking to satisfy exogenous national preferences (Elgström 2003, p.10).

The effect of the reforms of the Lisbon Treaty on the rotating EU Presidency in CFSP affairs are examined by assessing the actual repercussions of these reforms on the learning process of small countries. The interaction between the European and the national level contributes to the overall Europeanisation of administration and concepts. It should be taken into account that the impact of the Europeanisation of the *administrative structures* as well as the *change of concepts* while holding the Council Presidency is greater for the small member states (Elgström 2003, p.9). The administrative structures of small states are weaker and more problematic than the administrative structures of the large states and, thus, there is a long way to go in order to adapt to the European standards. This impact is maximalised during the Council Presidency of each country, since the six month rotating Presidency becomes

³ Zito A. & Schout A., “Learning theory reconsidered: EU integration theories and learning”, *Journal of European Public Policy*, v. 16, issue 18, 2009 (p. 1104).

⁴ *Ibid* (p. 1112).

the driving force for change. For example, in the Greek Ministry of Foreign Affairs, a significant restructuring has taken place at all levels to adapt to the realities of the EU in general and of the foreign policy dimension in particular. Resources, experiences, skills, permanent patterns of communication (such as the COREU telex system) as well as the creation of new specialized administrative units, the regular exchange placements of diplomats in other EU foreign ministries and the work of the political directors have led to a degree of socialisation which forms part of the Europeanisation process (Ioakimidis 2001 & Economides 2005). The impact of the learning process on small states is also greater as far as the Europeanisation of concepts is concerned. The Council Presidency is expected to act as a mediator (broker) in order to reach a compromise: *“The Presidency must, by definition, be neutral and impartial”*⁵.

The new institutional system detaches the Presidency of the Council from the Presidency of the European Council and partly displaces the traditional system of six-monthly rotating national presidencies. The Lisbon Treaty introduced a **Permanent President** (Herman van Rompuy is elected as European Council President for the first term of 2,5 year), who *“in the absence of a national mandate, will appear, as a supra partes figure and no longer as a primus inter pares”*⁶. The President of the European Council will chair and drive forward the work of the European Council, will ensure the preparation and continuity of its work, in cooperation with the President of the Commission and, on the basis of the work of the General Affairs Council, will facilitate cohesion and consensus within the European Council. In addition, *“The President of the European Council shall, at his 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”*⁷.

Due to the importance attributed by the small EU states in maintaining the rotating Council Presidencies system, agreement on this institutional reform was not easily reached during negotiations. Fervent supporters of this change were three large countries – Spain with José María Aznar, the United Kingdom with Tony Blair and France with Jacques Chirac. As representatives of large EU states, they wanted to

⁵ Council Guide, The Presidency Handbook, February 2006 (p. 14) in www.eurosfairer.prd.fr/7pc/doc/1200495506_presidence_eu_handbook_2006.pdf

⁶ *Op. cit.* 1, p. 628.

⁷ Article 15 (par.6), Consolidated Version of the Treaty on European Union, Official Journal of the European Union, C 83/13, 30.3.2010

avoid the Council being too often led by small countries (since, after the 2004/2007 enlargement, there would be six large states and twenty one small states) underpinning that they would not be capable, due to restricted resources, to give to the EU the required dynamic international presence. On the other hand, smaller states were concerned that the new post of the President of the European Council would restrain their influence and would hold back progress towards deeper European integration. As a compromise, it was decided to retain the rotating Council Presidency but to exclude foreign affairs from its competency (Barber 2010, pp. 57-58).

To this end, the Lisbon Treaty provided for the post of a *High Representative* for EU foreign policy. The Lisbon Treaty established two Council configurations, General Affairs and Foreign Affairs, and allowed for additional formations to be established across sectoral lines (with the EU leaders retaining the existing Council formations). The General Affairs Council is chaired by the country holding the rotating Presidency while the Foreign Affairs Council is chaired by the High Representative (and not by the rotating Presidency, as it was the case until now). The six-monthly rotating presidency remains in force in the Council of Ministers, composed of the ministers relevant to each Council configuration, the Committee of Permanent Representatives (Coreper), and Council working groups below that (Thomson 2008, p. 594).

The High Representative (Baroness Catherine Ashton is the first High Representative appointed after the implementation of the Lisbon Treaty) conducts the Union's Common Foreign and Security Policy, contributes by her proposals to the development of that policy, as mandated by the Council, and ensures implementation of the decisions adopted in this field. The High Representative also takes on the responsibility (previously exercised by the Council) of proposing and managing Special Representatives (TEU, Article 18) and replaces the Presidency in consulting with and informing the European Parliament on the main aspects of the CFSP (TEU, Article 21). Furthermore, members of the High Representative's office assume responsibility for chairing the Political and Security Committee, which prepares meetings of the Foreign Affairs Council, and of the foreign affairs working groups.

The fact that the High Representative will chair the Foreign Affairs Council deprives from the foreign ministers the opportunity to represent the EU internationally in foreign and security policy issues. The High Representative becomes a much more powerful figure by taking over three areas of responsibility – those handled by the

former High Representative/ Javier Solana, those of the foreign minister of the country holding the rotating Presidency, and those of the former EU External Relations Commissioner (Barber 2010, pp. 57-58). As far as the external representation is concerned, the High Representative represents the Union for matters relating to the Common Foreign and Security Policy, conducts political dialogue with third parties on the Union's behalf and expresses the Union's position in international organisations and at international conferences. It should be mentioned that the President of the European Council “*without prejudice to the powers of the High Representative*” (TEU, Article 15) will also represent the EU externally.

The High Representative will ensure the consistency of the Union's external action. “*The High Representative will be a personification and the animus, of the new gathering together of all aspects of external action*”⁸. In addition, she will have to act between two ‘hats’ since she would simultaneously hold the post of the Vice-President of the European Commission. As Vice-President of the Commission, the High Representative is also responsible for external relations within the E. Commission. It is argued that the Lisbon Treaty “*...contributed to communitarise the Foreign Affairs Council. This dual role of the new High Representative would effectively involve the difficult task of juggling the intergovernmental interests of the Council with the supranational interests of the Commission*”⁹.

In pair with the High Representative goes the institution of the European External Affairs Service (EEAS), which is an institution of sui generis (unique) nature. “*In fulfilling his mandate, the High Representative shall be assisted by a European External Action Service*” (TEU, Article 27, par.3). The High Representative exercises authority over the European External Action Service and over the Union delegations in third countries and at international organisations. It should have autonomy in terms of administrative budget and management of staff. The EEAS will have its own section in the EU budget, to which the usual budgetary and control rules will apply. “*The High Representative shall adopt the internal rules*

⁸ Whitman R. & Juncos A, “The Lisbon Treaty and the CFSP/ESDP: reforms, implementation and the consequences of the non-ratification”, *European Foreign Affairs Review*, 14: 25-46 2009 (p. 32).

⁹ *Op. cit 1*, pp. 617 — 634

for the management of the administrative budget lines. Operational expenditure shall remain within the Commission section of the budget.”¹⁰

The President of the European Council and the High Representative, along with the EEAS, involved in the EU institutional building, may confine the effect of the learning process in CFSP affairs. Until the implementation of the Lisbon Treaty, the learning process of the country holding the Council Presidency in CFSP affairs was based on three main features of the Council Presidency. First, the Council Presidency gives the opportunity to define the political priorities and to influence the EU agenda (***agenda setting***). This is more significant in CFSP affairs (second pillar) since the member states had the right to initiate proposals. The position of the European Commission in the second pillar issues (CFSP affairs) is weaker than in the European Community, because of the special nature of the foreign policy. Until now, all member states as well as the European Commission had the right to submit proposals to the Council of Ministers. As it was stated in the Maastricht Treaty “*Any Member State or the Commission may refer to the Council any question relating to the common foreign and security policy and may submit proposals to the Council*” (Article J.9) and “*The Commission shall be fully associated with the work carried out in the common foreign and security policy field*” (Article J.8, par.3)¹¹. Consequently, the European Commission was functioning as the 28th member state. It should be pointed out that in the Relex mini cabinet¹², the European Commission did not use its right of initiative and was not capable of finding a place in the decision making procedure of the second pillar (Bretherton & Vogler 1999). The formulation of the agenda in CFSP affairs will not be in the competence of the member states, after the reforms of the Lisbon Treaty. In addition, it should be underlined that the institution of team presidencies which is in force since 2007, before the implementation of the Lisbon Treaty, has already circumscribed the power of agenda setting of each individual member state.

¹⁰ Article 8, par.1, Council of The European Union, Council Decision establishing the organization and functioning of the European External Action Service, 11665/1/10 REV 1, Brussels, 20 July 2010 at <http://register.consilium.europa.eu/pdf/en/10/st11/st11665-re01.en10.pdf>

¹¹ Title V, Treaty of the European Union, Treaty on European Union (92/C 191/01) at <http://eur-lex.europa.eu/en/treaties/dat/11992M/hm/11992M.html>

¹² Set up by the Jacques Santer, during his term as President of the European Commission, and abolished, afterwards, by Romano Prodi.

Second, the country holding the Council Presidency was *responsible for the implementation of the decisions taken in the CFSP area*, another characteristic that demonstrates the primordial role of the Council Presidency in CFSP affairs, something that is also changing, after Lisbon Treaty, as it is explained above. The agenda setting and the implementation powers give an impetus to the europeanisation procedure of concepts. The small countries in order to hold good Council Presidencies are europeanised. The europeanisation procedure may lead to a policy making system, in each country, where the actors confine their conduct and are compromised, as far as their national interests are concerned, in order to formulate common policies (consensus building) and to perform good Presidencies. A Good Council Presidency acts as a consensus builder that guarantees the continuity of the EU action (Talberg 2003). This learning procedure is related to the re-evaluation of the national interests in the European framework (Wessels, 1997). The main difference between a bargainer and a consensus builder (problem-solving approach) lies in the respective focus on self-interests versus common interests. If a member state wants to pursue its narrow national interest, while holding the EU Presidency, without making compromises, it acts as a hard bargainer.

The learning process in CFSP affairs, as far as agenda setting and implementing the decisions taken is concerned, will continue and after the Lisbon Treaty reforms, since the country holding the Council Presidency keeps on presiding the General Affairs Council and, along with the President of the European Council and the President of the European Commission, on preparing the Summits of the European Council. However, the learning process of the rotating Council Presidency in CFSP affairs will be confined, due to the significant restriction of its powers. To what extent the learning process will be restricted depends on the final role of General Affairs Council, on the two holders that undertook the two new supranational offices and on the political will of the European élite.

The third feature of the rotating Council Presidency in CFSP affairs that promoted the learning process, up to now, was the task of *representing the Union all over the world* and of conducting the political dialogue of the European Union with third countries. In this context, the country holding the Council Presidency, expresses the EU position in the international institutions and conferences. Following the Amsterdam Treaty, in these missions, the Minister of Foreign Affairs of the country holding the Council Presidency was accompanied by the two members of the Troika,

the High Representative/ Council General Secretary and by the member of the European Commission, responsible for external relations and neighbourhood policy¹³. Especially for small member states, the task of the external representation of the European Union was a motive force for change. The fact that a small country should represent the EU in an area where it did not have national interest and, sometimes, did not even have an embassy manifests to what extent the task of external representation of the Council Presidency stimulates the learning process (Economides, 2005). The member state extended its powers and asked for organizational modernization and upgrading of its competences and staff. The external representation of the European Union, mainly becomes the responsibility of the President of the European Council and also of the High Representative. The deprivation of external representation capacity from the Council Presidency constitutes a significant constraint to the learning process.

On the other hand, it can be argued that the functioning of the EEAS may *even boost socialisation*. The EEAS will be to the High Representative /Vice President the same as the Policy Unit for the former High Representative/Secretary General. The EEAS, in the end becomes a “*functional interface between all the main European foreign policy actors*” (EPC 2007, p. 23). The EEAS will have an administrative budget funded primarily by the EU budget, also involving the European Parliament. Furthermore, the EEAS should be composed of “*a number of directorates-general comprising geographic desks covering all countries and regions of the world, as well as multilateral and thematic desks*”¹⁴, the tasks currently executed by the relevant parts of the Commission and the Council Secretariat. Trade and development policy as defined by the Treaty will remain the responsibility of relevant Commissioners of the Commission.

The EEAS interacts with the Commission employees and with employees from the Council. “*The EEAS may produce and sustain a socialisation process among participants – the ‘Europeanisation’ of policy processes required when decisions are to be taken collectively*”¹⁵. Good communication lines will have to be established with all the relevant Commission DGs too, as well as with the European Council

¹³ If necessary, the Presidency was being seconded by the member state that would exert the following Council Presidency.

¹⁴ *Op. cit.* 10, Article 4 (par. 3a.).

¹⁵ Howorth J. & Le Gloannec A.-M., “The dynamics of institutionalization” (p. 28) in *The EU Foreign Service: how to build a more effective common policy*, EPC Working Paper No.28, November 2007.

President's services. Furthermore, the small member states will benefit from gathering information from the field. In addition, in order to enable the High Representative to conduct the Common Security and Defence Policy (CSDP), the EU's crisis management structures should be part of the EEAS while taking full account of their specificities. These structures will form an entity placed under the direct authority and responsibility of the High Representative.

Overall, we come to the conclusion that the new institutions of the President of the European Council and the High Representative will restrict the extent of the **learning process** for the small states based on the three main features (agenda setting, implementation, external representation) of the rotating Council Presidency in CFSP affairs. On the other hand, the functioning of the EEAS could have a positive impact on the socialisation process. In any case, we should take into account that, after the 2004/2007 enlargement, the powers gained from the rotating EU Presidency were undermined since each member state has to wait for more than 12 years in order to hold the Council Presidency.

III. Will the enhancement of supranational actors on the rotating Presidency in CFSP affairs reinforce integration and, through that, the role of small member states?

a) The impact of the Lisbon reforms on the influence of small states in CFSP affairs.

An important factor to be examined is whether the significant restriction of the capacities of the rotating Council Presidency in CFSP affairs will affect the possibilities of the small states to **increase their influence** and, even, to increase their power. The influence of the Council Presidency is more extensive, compared to other member states, when the voting procedure followed is the qualified majority voting and not unanimity, which is the voting procedure followed in CFSP affairs before and after the Lisbon Treaty. In fact, under qualified majority voting, the country holding the Council Presidency may be able to form a sufficient majority in support of a decision outcome close to its position. This is not the case under the unanimity procedure, since the preferences of all Member States need to be taken into account (Thomson 2008).

Now that the rotating Presidency in CFSP affairs is gradually replaced by supranational actors, ***the small states seem to be losing their influence***. Until the

recent enlargement, small member states, used to exercise good Council Presidencies in CFSP affairs. Europeanisation is an essential parameter for exerting successful Presidencies, interconnecting the learning process with the enhancement of the power of member states. By holding successful Council Presidencies, small member states increase their long term influence and enhance their role in international relations since performing good Presidencies alters positively the expectations of third parties.

The conduct of a Council Presidency depends on the power and, especially, on the identity (pattern behaviour) of the country holding it (Elgstrom, 2003). It is argued that the big member states hold the Council Presidencies from the capitals while the small member states depend more on their permanent representations. The “great past” of the member state affect their Council Presidencies: big member states tend more to act with unilateralism than the small states, in order to defend their vast national interests. They have special interest in the result of the conflict and dispose negotiation capability in the sense that they can give special motives. On the other hand, small states function as neutral actors since they do not have special interest in most cases of crisis management and dispose restricted traditional power. It is for this reason that they favour the majority positions.

b) The accountability of CFSP after the Lisbon Treaty

Given that small member states (as defined above) cannot act alone and that their presence in the international scene is usually restricted in European Union foreign policy (while the big member states, most of the times, act independently from the Common Foreign and Security Policy), a potential accountability gap in CFSP affairs affect them more negatively. In order to examine the accountability in CFSP, the role of the national parliaments of the European Parliament and of the European Court of Justice should be assessed. In the second pillar, the hierarchy between elected and non-elected representatives is not respected. *“In sum, the second pillar framework seriously blurs the principle of separation of powers as the Council is both legislator and executive (the latter together with the Commission and the European Council)”*.¹⁶ The European Parliament, the national parliaments and the European Court of Justice (EJC) have no formal powers according to Title V TEU.

¹⁶ Stie A. El., “Decision-making Void of Democratic Qualities? An Evaluation of the EU’s Second Pillar Decision-making Procedure”, in: Vanhoonaeker, Sophie, Hylke Dijkstra and Heidi Maurer (eds). *Understanding the Role of Bureaucracy in the European Security and Defence Policy*, European

CFSP still remains out of the control of EJC and of the national parliaments after the Lisbon Treaty. It is argued (Stie, p.15) that uploading foreign, security and defence policy to the EU level means that this policy field is less democratically controlled, since the national parliaments are not empowered to hold the Council or their own government accountable. In addition, the European Council/Council policy-making system may become less open to new ideas and “*thus risks the recycling of opinions and positions that in the longer run can affect the quality of, and subsequently jeopardise trust in, EU second pillar decisions*”¹⁷.

On the other hand, special reference should be made to the enhancement of the role of the European Parliament in CFSP affairs by the Lisbon Treaty compared to the previous situation. It is argued (Emmanouilidis & Stratulat) that the European Parliament profits most from the provisions of the Lisbon Treaty as it advances its legislative, budgetary and nomination powers. “*...The EP can bring an element of democratic authenticity to EU foreign policy. Participation in EU foreign policy making serves as a form of identity building for the EP*”¹⁸. MEPs are relatively united on the EP’s human rights and democratization-driven foreign policy identity.

The financing of the EEAS is of great importance (Batora, 2010). The new Service is to be financed by the EU’s budget, strengthening the budgetary powers of the European Parliament “*over all spending, including the EEAS, giving Parliament parity with the Council*”¹⁹. Furthermore, the High Representative is to “consult” the European Parliament on the main aspects and the basic choices of the CFSP/CDSP and the EEAS is to set up close working relations with the European Parliament.

In fact the High Representative as the Vice President of the European Commission will have to follow the same procedures applied to the Commission College. The Council, in a joint agreement with the elected President of the Commission, elaborates the list of the other persons proposed as members of the Commission. These persons are selected based on the proposals of the member states.

Integration online Papers (EIoP), Special Issue 1, Vol. 14, 2010 (p.15) at <http://eiop.or.at/eiop/texte/2010-011a.htm>

¹⁷ *Ibid* p. 19

¹⁸ Bickerton Chr. J., “Functionality in EU Foreign Policy: Towards a New Research Agenda?” (p. 221), *Journal of European Integration*, Vol. 32, No. 2, 213–227, March 2010

¹⁹ Batora, J., “A Democratically Accountable European External Action Service: Three Scenarios”, In: Vanhoonaeker, Sophie, Hylke Dijkstra and Heidi Maurer (eds). *Understanding the Role of Bureaucracy in the European Security and Defence Policy*, European Integration online Papers (EIoP), Special Issue 1, Vol. 14, 2010 <http://eiop.or.at/eiop/texte/2010-013a.htm>. (p. 6).

The High Representative, as member of the college of the Commissioners, is subject to the approval of the European Parliament and is accountable to this institution. By contrast, the institution of the High Representative as it was before the implementation of the Lisbon Treaty was for a more intergovernmental nature. Furthermore, the President of the European Council will also present a report to the European Parliament after each of the meetings of the European Council (Article 15 par. 6d), that its double times than before the entering into force of the Lisbon Treaty (Stie, 2010).

According to the Draft Report (EP Committee on Constitutional Affairs, 2005), the EEAS was to be fully incorporated within the Commission's staff structure for logistical, administrative and budgetary reasons and to have political control. The EEAS staff would administratively belong to the Commission staff and "*heads of embassies should be accountable to the parliamentary committees concerned and required to go through an appropriate hearing procedure before they are appointed*"²⁰. In this case, there is both administrative accountability and political accountability. However, in the *Joint Progress Report in June 2005*²¹, the High Representative for CFSP Javier Solana and European Commission President Jose-Manuel Barroso abandoned the idea of being situated in the service in the Commission. The EEAS was described as a "sui generis nature" (Joint Progress Report, 2005- par. 6), working under the authority of the Foreign Minister and with close links to both the Council and Commission. Therefore the communitarization of the EEAS was prevented. The functioning of the EEAS is still to be seen.

c) The impact of the enhancement of the role of supranational actors on the rotating EU Presidency to small member states.

As far as the position of the small states in the new institutional architecture of European Union, it can be argued that the extension of the QMV method into more policy fields weakens the position of small states in the decision-making process of

²⁰ *Ibid*

²¹ Council of the European Union, Joint Progress Report to The European Council by The Secretary-General/High Representative and The Commission, Brussels, 9956/05, 9 June 2005 at <http://register.consilium.europa.eu/pdf/en/05/st09/st09956.en05.pdf>

the Union. The two traditional methods- simple majority voting and unanimity voting- favour small member states. However, as it is generally acknowledged in the literature, the veto power of small states is limited in practice and the threat to veto is an option mainly used by the larger member states (Thorhallsson & Wivel, p. 654).

As the prominent figure within the Council, and therefore as one of the main bridges between the supranational and intergovernmental dimensions of the Union, the Presidency implies a balancing act between the individual interests of national governments and the general interests of the Community”²². The Lisbon Treaty recasts the balance among the institutions, with the European Council power, a rather intergovernmental institution, being clearly reinforced. However, a supranational actor will represent the European Council, its President. With the establishment of new supranational posts, supranationalism in CFSP is enhanced after the implementation of the Lisbon Treaty, something that may enhance the efficiency in the CFSP policy area.

Furthermore, the two main supranational institutions, the European Commission and the European Parliament, are more involved in the practice of CFSP after the Lisbon Treaty. The High Representative, as Vice President of the Commission, is accountable to the European Parliament. By contrast, the institution of the High Representative, as it was before the implementation of the Lisbon Treaty, was a quite intergovernmental institution. By having the two new institutions more involved in CFSP affairs, supranationalism is reinforced.

The institutionalisation of the CFSP actors (such as PSC) and the enhancement of visibility are two factors that enhance supranationalism in CFSP. The CFSP policy making process depends a lot on Council officials and advisers, since the decision making in CFSP is mainly taken in the EU Council. The high majority of the issues discussed in the senior bodies such as the Political and Security Committee (PSC) are agreed at a lower level (the so called “A” points). Only few highly contentious issues (approximately 10%) reach the GAERC as “B” points. As a result of that, it is argued that, until now, CFSP decision making is dominated by unelected actors, by national executives, without adequate involvement of parliamentarians, and lacks legitimacy (Stie 2010, p.12). After the implementation of the Lisbon Treaty, the PSC is presided by the High Representative/Vice President.

²² *Op. cit* footnote 1, p. 619.

Furthermore, the functioning of EEAS promotes supranationalism. The administration of the new service will be central. A powerful secretary general will run the day-to-day EEAS administration. Two deputy secretary generals, a Chief Operations Officer (COO) in charge of budgets and personnel, and five or six senior directors general will form the rest of the management. The Executive Secretary-General will operate under the authority of the High Representative and will be responsible for the smooth functioning of the EEAS, including its administrative and budgetary management and for the effective coordination between all departments in the central administration as well as with the Union Delegations²³. It should be taken into account that the EEAS staff will be appointed by the High Representative through a transparent procedure based on merit with the objective of securing the services of staff of the highest standard of ability, efficiency and integrity, while ensuring adequate geographical and gender balance, and a meaningful presence of nationals from all Member States in the EEAS²⁴.

Under the new institutional architecture, standard ways of organizing foreign affairs administration are introduced (Batora 2010). The Lisbon Treaty initiates more supranational actors and, more or less, abolishes the powers of the Council Presidency over CFSP affairs, an intergovernmental institution. The Lisbon Treaty replaces the rotating presidency in the European Council, which includes the Member States' heads of state or government, with a president elected by qualified majority vote and appointed for a renewable two and a half year term. The creation of the full-time Presidency is particularly significant for the future of the European Council. *“Although the Treaty says little about the powers or prerogatives of the new office, experience suggests that it will evolve into an important and influential post”*²⁵. The EAAS will enhance cooperation between the European Council Presidencies with the Commission. The better cooperation among promotes integration. It is also claimed that the foreign affairs service will seek to gain legitimacy *“as a promoter of a*

²³ Article 4 (par. 1), Council of The European Union, Council Decision establishing the organisation and functioning of the European External Action Service, 11665/1/10 REV 1, Brussels, 20 July 2010 at <http://register.consilium.europa.eu/pdf/en/10/st11/st11665-re01.en10.pdf>

²⁴ *Ibid* Article 6, par. 8.

²⁵ Dinan D., “Institutions and Governance: A New Treaty, a Newly Elected Parliament and a New Commission”, *Journal of Common Market Studies* 2010 Volume 48 Annual Review pp. 95–118. (p. 98)

democratic system-transformative meta-agenda in the EU foreign policy”, which will require an “*innovative politico-administrative arrangements for achieving it*”²⁶.

The new institutional architecture seems to be dealing with the problems of visibility and continuity observed (Beke, Alcidi, Egenhofer, 2010) in the institution of the rotating presidency. Apart from the evident lack of continuity of the action of the six month Council Presidency, the action of the European Commission also lacks coherence, given that the different Commissioners and the respective General Directorates are fighting continuously for their competences and their capacities. There was not integrative approach between the economic and the political aspect of the action, neither a global approach on the conduct of the European Commission for the external affairs (Piana 2001).

Consistency is also enhanced by the “rebranding” of all aspects of EU foreign policy and external relations under the new heading of “External Action”. A new Part V of the Treaty of the Functioning of the European Union (TFEU) is entitled “External Action by the Union” and draws together the old EC Treaty provisions on the Common Commercial Policy, cooperation with third countries and humanitarian aid, restrictive measures, international agreements, relations with international organizations and third countries and Union delegations and the solidarity clause as well as the specific provisions on the Common Foreign and Security Policy (Whitman & Juncos, pp. 28-29).

The EEAS will *enhance the efficiency* of the European Union foreign policy and, subsequently, of the small member state that do not have extensive independent foreign policy activities. The availability of ‘EU-made’ information will give some Member States without representation in that region access to material which they did not previously receive. An EU ambassador making enquiries with the host country’s Ministry of Foreign Affairs on behalf of the Union is likely to reduce the need for all national ambassadors to duplicate these efforts. When requesting information or conveying the EU position to foreign interlocutors, the EU ambassador is likely to have access to a host state’s government at a level that ambassadors of smaller Member States do not routinely enjoy. There are also significant benefits from the EU’s external representation that result from having “*a single EU ‘ambassador’*”

²⁶ *Op. cit.* footnote 19 (p.14).

rather than 27 rotating names and telephone numbers”²⁷. Furthermore, by being able to draw more easily on resources from both the Union’s first (Community) and second (CFSP) pillars, the EEAS could boost the coherence and effectiveness of EU foreign policy.

It can be argued that, potentially, with the new institutional arrangements, the EU is ***pushing forward integration, moving towards a new more federal model***. The institutional reforms of the Lisbon Treaty have a significant dynamic. Even if it is a Reform Treaty that does not dispose a grand wrap, the Lisbon Treaty comprises all the significant innovations of the Constitutional Treaty and can render the Union more efficient and democratic, without, though, being a “*saut constitutional*” (Wessels & Bopp 2008, p. 29). The representation of the European Union from the new High Representative and not from three different actors (as it was happening until now), the institutionalisation of the European Service of Foreign Affairs that will support the task of the High Representative, the extension of the use of co-decision and of the qualified majority voting (with the implementation of policy sectors, asylum, illegal migration and police cooperation) as well as the regulations for the participation of the national parliaments in the decision making process of the European Union constitute essential institutional reforms that, potentially, contribute to deal adequately with the international challenges in the European Union.

CFSP, prior to the Lisbon Treaty, was essentially an intergovernmental activity, with a low level of integration. The decision making rule in CFSP affairs was unanimity (something that will not change) giving a great extent of power of influence to the decision-making process to the member states, restricting the role of the Commission and of the European Parliament and enhancing intergovernmentalism. The member states were trying to coordinate their different views, to harmonise their different sovereign interests and to adopt a common position, based on the lowest common denominator. (Kirchner 1992).

Up to now CFSP lacked a genuine integrative base. The Council Presidency, until recently, used to be an office, vital for the good functioning of the Council, and not an institution or a body (Westlake, 1999) As it is stressed by E. Kirchner, the EU Council Presidency is more a product of an evolutionary procedure of encountering

²⁷ EPC, “The EU Foreign Service: how to build a more effective common policy”, EPC Working Paper No.28, November 2007. (p. 41)

the functional necessities of the Council and goes along with the enhancement of the role of intergovernmental powers.

The two new supranational institutions, the President of the European Council and the High Representative, based on the current literature, would contain the dynamics of a genuine integrative base that will privilege change. In addition, the EEAS may also promote the European integration process. Apart from informing foreign policy-making and action, *“the EEAS will almost certainly create an EU mould, of fostering a European spirit, of devising European ways of thinking, habits, codes and procedures – which might eventually contribute to harmonising the foreign policy process”*²⁸.

As it is argued by David Mitrany *“...in highly industrialised societies, with pluralist social structures and muted ideological conflict, cooperation spill over slowly from the technical to the political”*²⁹. The functional cooperation privileges change. When supranational institutions function, member states agree to withdraw in the common forum and the relations among member states slowly change. This spill over from technical to political privileges federalism. In CFSP, a form of “governance” in European foreign policy is produced with formal and informal decision making processes. CFSP contains “communitarian dynamics”: informal codes of conduct, rules of the game and tacit understandings. As it is explained through social constructivism, these produce commonality not expressed in formal and legal agreements. (Moens 1996, p. 169)

CONCLUSIONS

The reforms of the Lisbon Treaty on the rotating EU Presidency challenge the powers of small states in CFSP affairs. On the one hand, the impact of the learning

²⁸ Howorth J. & Le Gloannec A.-M., “The dynamics of institutionalization” (p. 33-34) in *The EU Foreign Service: how to build a more effective common policy*, EPC Working Paper No.28, November 2007.

²⁹ Moens A., “The road towards a Common Foreign and Security Policy”, *Journal of European Integration*, v. 19, Issue 2, 1996 (p.167).

process will be restricted since the small member states (whose national interests in foreign policy are more restricted than the EU foreign policy) will be, more or less, deprived from holding the Council Presidency in CFSP affairs. On the other hand, the central management and the interaction between more supranational actors will give more impetus to the socialisation process, creating an integration network of elites that gain support and credibility from spillover processes. Furthermore, the Lisbon reforms in the rotating Council Presidency are braking the influence of small member states in CFSP affairs. However, as a counterbalance, small member states have the chance to benefit from a common governance of CFSP. The continued and increasing effectiveness and integration of EU policy-making is in the interest of the small member states since, this way, their relative power in the international scene is enhanced.

The provisions of the Lisbon Treaty on the rotating Presidency, in CFSP affairs, lead to a process of de facto involvement of more supranational actors. The strengthening of supranational actors and of the functional cooperation may lead to a more overall form of “governance” in European foreign policy. However, this process cannot not be qualified as a communitarisation process but, as a “Brusselisation” process. The Brusselisation process has the potential to enhance efficiency and effectiveness of the institutions. The increasing number of bodies working within CFSP in Brussels contribute to the establishment of a common group discipline (Wessels & Bopp 2008, p.p. 29-30). However, the overall institutional future of EU also depends on the performance of the two first officials, since they have overlapping competences in some points, on the performance of the new “sui generis” European External Action Service as well as on the political will of the national political élites.

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