

**COMMON FOREIGN AND SECURITY POLICY,
EUROPEAN SECURITY AND DEFENCE POLICY OF
THE EUROPEAN UNION AFTER THE LISBON TREATY**

Dušan Leška, Comenius University in Bratislava, Faculty of Social
and Economic Sciences

Summary:

The Lisbon Treaty opens a new era in the development of the European Union, in creation of a common foreign, security and defence policy. On the basis of the Treaty, the Union got its legal status which allows it to represent itself in the international relations. It anchored a lot of institutional changes which make it possible not only to solve the matter of personification of the Union, but above all to enable a deeper interconnection between the communitaire and inter-governmental cooperation, inclusion of further bodies of the Union, and a better coordination of the Member States of the EU in the process of creation of the CFSP and ESDP. In this way, bigger continuity and consistency of the foreign policy is ensured, and division on the solution of the actual global problems. The Treaty formulates methods of a structural cooperation and realization of the EU mission; it anchors the principle of collective defence, gives new incentives for cooperation between the Member States in the scope of the European defence agency. Alongside it emphasizes the need of a near concurrence with NATO.

Key Words: European Union, Common Foreign and Security Policy, European Security and Defence Policy, European Defence Agency, Maastricht Treaty, Amsterdam Treaty, Nice Treaty, Lisbon Treaty

Establishment of the Common Foreign and Security Policy of the European Community

The European Community (EC), after its establishment, amounted to significant achievements in economic cooperation, first in selected sectors of the economy, trade and mutual economic potential of linking the member countries. This progress is expanding into more and more areas of the economy, which in that period was in conformity with the theory of neo-functionalism that spoke of the spill over mechanism. One may say that this mechanism was in force during the entire 60 years of the development of the Community. At the same time, however, appeared a need to coordinate the same way the external policy, external relations to third countries. First, that need was to satisfy the external economic relations in trade policy, but increasingly it was important to consolidate and political attitudes to certain events, to crisis situations as they arose and which in turn influence on the commercial policy.

In the 1950s, the so-called Pleven's Plan was already developed proposing creation of a European army, signed by the countries of the European Coal and Steel Community, and led to signing of the Treaty establishing the European Defence Community. However, the project failed, as the French parliament rejected it because of fears of losing its national sovereignty. This idea was premature because the convergence of a political area, shaping a common foreign policy requires a relatively high degree of economic integration. Thus it appears that the neo-functionalist theory can not be applied on the political issues. Only ever deeper interconnection of economies, formation of a common economic mechanism and creation of a common economic policy, created the preconditions and conditions for convergence in the area of foreign policy and common defence.

Idea of a common foreign policy remained alive, and further international-political developments constantly raise the need for it, so further experiments followed. Another incentive was the so-called Davignon report published in 1970, which stressed the need for coordination between Member

States in international affairs and in solving international problems. The document was discussed at the Council of Foreign Ministers and Heads of State and Government in Luxemburg in 1970 and was launched by foreign policy cooperation between Member States to sign the European Political Cooperation (EPC).

EPC was built solely on the intergovernmental principle, and at the same time it should have excluded all the controversial issues concerning security and defence. Mechanism of regular consultations of foreign ministers of the EC Member States was created, held at least four times a year. EPC did not have a period of no administrative background, not affiliated with the Community activities; sessions were separated from the EPC ordinary session of the Council of Ministers. Contact between the member countries of the Community ensured the Political Committee composed of senior officials seconded from the ministries of individual countries. The Presidency Institute was formally responsible institution for the EPC thus countries were being represented on rotational basis within the Council of Ministers.

The need to jointly address emerging international-political challenges was increasingly urgent and the next step was the adoption of the Single European Act in 1986, which actually managed to connect the activities undertaken by the Member States under the heading of the EPC and the agenda of the Community. (Fiala – Pitrová 2009, p. 597 – 598) The EPC was also enshrined in the primary legislation of the EC and after the SEA entered into force, it was replaced with the Common foreign and security policy. Coordination and harmonization of the EC activities in the EPC framework are ensured by the Commission. The Deputy Secretary-General of the Secretariat of the Commission participated in meetings of the Political Committee, and if needed, the Commission contacted COREPER (Committee of Permanent Representatives). This mechanism gradually ceased to satisfaction, because it was necessary to increasingly connect external economic and external political activities. The external economic relations were under responsibility of the Commission and COREPER, i.e. on the level of community and external political relations at the discretion of the Ministers of Foreign Affairs assisted by the Political Committee, namely on

intergovernmental level. In order to make the Community's foreign policy a consistent one, these two areas were necessary to be connected. In the interest of foreign policy, economical or business tools are used and vice versa economic interests required applying adequate political activity and collective action. Therefore, the Commission was confirmed on the position of an authority organ on foreign policy issues in its totality (Art. 30, Single European Act) taking into consideration views of the European Parliament. At the same time, the EPC Secretariat was created with its seat in Brussels. The political affairs of the EPC could be discussed in the context of political cooperation at the meetings of the European Commission. In order to provide better exchange of information between the EC agenda and the EPC, group of special correspondents was formed. Translating the gravity of the EPC in Brussels, to some extent undermined the possibility of presidential state, but served to increase the overall potential of the EPC. (Nuttall 2000, p. 23)

The EPC, in a decade since its inception, reached a number of successes. The Member States acted in accordance with the adopted common positions, even though such obligation has not been legally treated. Despite these achievements, several authors note that the EPC had not been a common foreign policy yet, but rather used for diplomatic coordination on the basis of a "shared national interests, but not on the definition of a common European interest." (Smith 2001, p.264) These successes were condition for the existence of a bipolar division of the world to formulate a clear framework for potential conflicts. The situation changed dramatically after the Cold War, collapse of the bipolar division of the world and the gradual enlargement of the European Union to the east of Europe. "However, at the beginning of the 1990s foreign and security policy issues were pushed to the top of the agenda with the revolutions in Central and Eastern Europe, the collapse of the Soviet empire and the sudden end of the Cold War. The inadequacy of the EPC structure, even within the SEA framework was further highlighted by the outbreak of the Gulf crisis in August 1990 and the civil war in Yugoslavia in June 1991." (Hix 2005, p. 388) These changes created the need to adopt new mechanisms for shaping the EU foreign policy. In general, to review the foreign policy and the

commitment to complete its part of the defence contributed three suggestions: disintegration of the bipolar division of the world as a result to which the nature of conflicts has changed, the withdrawal of the U.S. troops from Europe, and the need to strengthen EU's political identity. (Fries 1998, p. 83-84)

The Treaty on the European Union – establishment of the Common Foreign and Security Cooperation

The Treaty on European Union adopted in Maastricht in 1992 brought about the changes of the name to European Union (EU) and number of other changes not only in economical and monetary, political policies, but as well changes in the common foreign and security policy. It contains provisions on the EU's responsibility for all the matters relating to its security, including creation of a common defence policy. Economic growth potential and gradual expansion of the European Communities and the European Union demanded that the Union not only responds to certain events, but will actively include itself in the international-political processes and it will contribute to their formation. The need grew not only in eyes of interest jointly attitudes (which is also important), or the solution of crisis situations and conflicts, but to also spread the peace and stability, to spread the values the Union is founded on, to prepare new countries to join the Union. Therefore, it gradually shaped a wide range of external policy instruments depending on the region or the problems solved. Other links to the associated countries, that were preparing to join the European Union, were a subject of special economical and political regime of cooperation. On this basis later the European Neighbourhood Policy was created, which aim is to extend the zone of stability, security and prosperity around the EU. This category also included countries of Eastern Europe, the Balkans, as well as the Arabian subcontinent. Development aid of the Union provided in critical areas during natural disasters became another important tool.

Experiences that the European Union has shown that even though a uniformed position of the Member countries was achieved, and that the necessary declarations were accepted, it was often proved to be inadequate, respectively ineffective, if the declarations did not stand real means to

enforce them. Therefore, it was important to start the use of military and civilian capabilities in conflict prevention, conservation or restoration of peace in the region and in the world. Moreover, the ongoing globalization brings a number of problems that can be addressed only with the joint efforts and affecting global development, for example, preventing climate change, which have undermined the ecological balance and are threatening an ecological disaster. The European Union consolidated the views of its Member States and spoke actively on conferences in Copenhagen. Need to combat terrorism also arise, which requires use of specific resources and a common practice in the international arena. All these factors determined the need to shape a common security and foreign policy of the Union and at the same time its outgrowth to security and defence policy.

Implementation of the common foreign and security policy was not easy and straightforward process. Even under the pressure of external events, its formation always took place as a compromise between different groups of states, in this case a compromise between minimalist group that wanted to maintain their sovereignty in the area of foreign relations and defence (Great Britain and France) and a maximalist group that forced fundamental changes in a form of supranationalisation of foreign policy (e.g. Germany).

In case of the Maastricht agreement under one of these compromises there was adopted so-called pillar structure of the European Union, when the Common Foreign and Security Policy was included in the II pillar, thus being separated from the I Community (communitaire) pillar of the European Communities. (The Union's budget, the common and coordinated policies which received bodies in the Union belonged to the first pillar.)

In the II EU pillar the decisions were brought on the basis of intergovernmental agreements, the Commission and the European Parliament playing only a minimal role in two policies. Even though they were involved in the activities they were not the creators of a specific common law that would bind the Member States. Decisions were brought by consensus which allowed member countries to abstain in order to block the entire process. Institutions with supranational and delegated powers were not created. The EU Treaty established

a new intergovernmental Common Foreign and Security Policy (CFSP), enriched by the security dimension. The preamble of Treaty set the implementation of a common foreign and security policy including the eventual creation of a common defence policy which might lead to a common defence and to strengthen the European identity and independence.

The basic objectives of the Common Foreign and Security Policy were defined as follows:

- to safeguard the common values, fundamental interests and independence of the Union;
- to strengthen security of the Union and its Member States in all directions;
- to preserve the peace and strengthen the international security in accordance with the principles of the UN Charter and the principles of the Helsinki Final Act and the objectives of the Paris Charter;
- to promote international cooperation and
- to develop and consolidate democracy and the rule of law and respect human rights and fundamental freedoms (art. J.I, par. 2 EU Treaty)

The main instruments of CFSP were: common positions and joint actions. Naturally, also the declaration, the cooperation in third countries and the coordination in international organizations; relations with third countries; relations with the Western European Union; the negative measures applied by the Union were of significant importance.

In the area of defence policy it began the converging or growing in from Western European Union (WEU) into European Union. The European Union in its treaty asked the WEU to work through and carry out the decisions of the Union which have defence implications. (Art. J.4, par.1, 2, EU Treaty). In the Declaration of WEU, which was attached to the treaty, conformity of the WEU to cooperate with the EU towards the creation of a genuine European Security and Defence Identity was confirmed. States agreed in the Declaration on the strengthening of the European pillar of NATO and the creation of a Common Defence Policy compatible with NATO.

The Treaty committed Member States that are also members of the UN Security Council to coordinate their actions and to fully inform other States so that in the exercise

of their functions they would represent the attitudes and interests of the Union, and they bear responsibility for all clauses that follows from the UN Charter. The Coordinator of the CFSP was established by the European Council, which also adopts the principles and general guidelines, together with the presidential state (Art. J.8, EU Treaty). The Presidential state shall carry out its tasks with the assistance of the member states of the "Troika"¹ and the Commission that is fully involved in the CFSP. (Art. J. 5, EU Treaty). The main actor in the CFSP is the EU Council consequently the Foreign Ministers of the Member States who have a role to take the necessary decisions and implement them. On this ground, joint positions and actions are taken for which unanimity approval is required. In case of procedural questions in the framework of the joint actions that was already approved, qualified majority vote is used.

According to the contract in the SCFP it is necessary to involve the European Parliament as well. The chairman state has the obligation to consult the Parliament about the main aspects and basic alternatives of the SCFP, and the Parliament also has to be regularly informed by the Commission and the Council. It has the right to interpolate the Council and to give it recommendations. The Commission together with the Council is charged with the responsibility for the links between the external economic relations and the conduct in the sphere of foreign and security policy.

Results of the Maastricht Treaty were rated as inconsistent. Given the close involvement of EU's highest authorities in the formulation and realization of the CFSP and its financing, that already was not a solely international activity, but it did not assure the shaping of common foreign and security policy. It raised a whole series of questions in sense if the CFSP is designed sufficiently effective. In the process of its implementation number of other problems emerged, that showed that, "it will be necessary to clarify the objectives of CFSP, to improve the communication with the

¹ European troika was the formal name under which the European Union acted in the external relations. With the adoption of the Amsterdam Treaty the Troika was consisted of the foreign minister of the country presiding with the EU, the European commissioner for foreign relations and the High representative of the EU for CFSP.

third parties, to address the compatibility of membership in the EU, NATO and the WEU and to achieve a clearer representation of the EU, which can be understood as the problem of personification of the CFSP.” (Fiala-Pitrova: 2009, p. 623) In any case, the contract meant a significant step forward in the sense that it clearly defined the CFSP, it identified the responsibility of the highest authorities of the EU for its formation and implementation, began to build bridges between the communautaire and the intergovernmental approach, in the area of intergovernmental approach it extended possibilities for qualified majority voting, it started with an integration process, it started the process of integrating the WEU in the EU to meet the challenges of the security and defence policy.

The CFSP has been further elaborated in the Amsterdam Treaty (1999), which introduced some changes in its provisions. The contract, while maintaining a unanimous vote for the adaptation of common positions, it brings a new element, so-called possibility of constructive abstention for the voting state. That means that even if a Member State decided not to support the EU’s decision that would not be a reason to block the decisions of the other countries. The decision will be adopted, but the noted state will not be participating in its implementation, but undertakes not to take actions that would be against the EU’s activities. An institute for common strategy was created, that effects the EU in the areas where Member States have important common interests and states that the strategies “define its objectives, duration and means that the Union and the Member States give in disposition” (Art. 13. TEU Revised Treaty of Amsterdam). A common strategy requires unanimous adoption by the European Council but other decisions in the strategy of joint actions; joint positions are adopted by qualified majority. This led to a flexible and strong foreign and security policy.

The Treaty creates a new institution, the High Representative for the CFSP who is also the Secretary General of the European Council. The High Representative of the CFSP is an associate chairman of the Union, he contributes to the formulation, preparation and implementation of the decisions and after being empowered by the chairman state he leads the

dialogue with the third parties. (Art. 26, Treaty of EU Revised Treaty of Amsterdam)

The Amsterdam treaty further proceeds in the concept of gradually building defence policy – European Security and Defence Policy (ESDP). When the common defence policy will be formed, the Member States will support the cooperation in the field of armaments. It promotes closer institutional relations with the WEU with the intention to incorporate them in the Union, if the European Council decides so. (Art. 17, Treaty of EU Revised Treaty of Amsterdam) It also assumes the roles in crisis management, known as the Petersburg tasks, which were in the responsibility of the WEU, in particular the actions of human mission to the achievement and maintenance of peace. In the adopted protocols to the Treaty it is highlighted that the steps in the field of defence do not refer to the special nature of security and defence policies of the Member States, nor its commitments in NATO.

Based on the requirements of the European Council in Laeken on need to deal with crisis management, a so-called European Capability Action Plan (ECAP) was worked through. Its role was to rationalize the defensive efforts of individual member states and thus deepen the synergy of public and multi state projects. The next meeting of the European Council in Santa de Feira in 2000 was decided that the civilian aspects of crisis management will be developed in four areas: police, strengthening of the rule of law, civil administration and protection of civilians.

At the summit of the European Council in Cologne in June 1999 in the chairman's report, for the first time the term European Security and Defence Policy (ESDP) was used, mechanisms for coordinated action in crisis were established and provisions relating to the establishment of European military capacity. It also contained proposals for creation of new institutions, mainly the Political and Security Committee, EU Military Committee, and Situation Centre. Part of the text was the breakdown on alternatives for possible operations and operations in accordance and support from NATO and operations using the funds provided by the Member States of the EU. It is important to mention that at the exact summit the High Representative for the CFSP was appointed and that was Javier Solana who carried out his duties until the

adoption of the Lisbon Treaty which contributed significantly to the promotion and the consistency of the CFSP. During his tenure the Union made a number of important achievements in foreign, security and defence policy.

The European Council in December 1999 in Helsinki formulated the so-called European Headline Goal, which included the role that the Member States would be able by 2003 to deploy, within 60 days and sustain at least one year, forces that can reach 50.000 to 60.000 people and who are able to carry out any mission set out in Article 17 of the Treaty of the European Union – so-called – Petersburg tasks. In the scope of the Council new political and military bodies and structures were created, which ensure the political orientation and strategic direction needed for these operations. It is a plan under which the EU should be able to respond to possible crisis situations through Rapid response by 2010. At the same time, the establishment of the European Defence Agency (EDA) is presumed.

The next step in realization of the CFSP was the Treaty of Nice (2003). The treaty provisions extended the sphere of the areas which fall under the qualified majority voting, the competences of the Political and Security Committee were strengthened in the crisis management actions. It supported creation of a European Security and Defence Policy (ESDP), which deals with security issues and could lead to a common defence, if the European Council decides on that and that decision would be adopted and ratified by the Member States. At the same time, it is stressed that the ESDP does not affect the specific nature of the security and defence policies of the single Member States and it is compatible with NATO's policy.

On the basis of the Nice Treaty the role of the Political and Security Committee was strengthened in the crisis management actions and three new institutions with decision making power in crisis situations were created: Committee for civilian aspects of crisis management, the EU Military Committee, the EU Military Staff and Political-Military Group, Policy Planning and Early Warning Unit. In the scope of the Secretariat of the European Council special general directorates, police unit and centre for crisis situations were set up.

In December 2003 the European Council adopted a security strategy entitled A Secure Europe in a Better World. That was the first strategic document which defined the risks and threats, advocated of Europe's proactive approach to threats such as terrorism, proliferation of weapons, regional conflicts and failed states. There are also signs of convergence between the U.S. and the European strategic priorities. As part of the framework for cooperation adopted on 17 March 2003, the so-called "Berlin-Plus" arrangements provide the basis for NATO-EU cooperation in crisis management by allowing the European Union to have access to NATO's collective assets and capabilities for the EU-led operations, including command arrangements and assistance in operational planning.

Difficulties in building up military forces outlined in the European Headline Goal and the need to respond more flexibly to the crisis situations that has led to the creation of smaller battle groups of the capacity of the Member States, comprising of 1500 soldiers. It can be created by a single state or a group of countries and its development can be divided among the European members of NATO. At a conference of commitments in the field of defence capabilities held on the 22 November 2004 the Member States adopted a commitment to make 13 of those battle groups that are able to begin an operation within 5 days after the approval of the Council or to an urgent request by the UN and should be able to conduct operations for up to 120 days. The created units are gradually every six months rotating to be on able to present combat readiness.

Developments on the international-political scene

The European Union has achieved significant success in the economical, monetary and trade area and became one of the most important actors in world affairs. Gathers together around 501, 2 million citizens, contributes 25% to the creation of the world domestic product and half of the total provision of development aid. This enormous global potential seeks that the Union takes over the responsibility to adequately address the global challenges in order to align their security interests in regional and global levels with responsibilities, which comes naturally from the position. It can not continue to only lift events, solve problems, crises and threats that arise, but to approach even more vigorously to prevent them, strongly

influence the development of the international-political situation in Europe and worldwide.

At the end of the 20th and the early 21st century, the international political situation has changed, which brought new conflicts, new problems and contradictions that must be addressed. The experience has shown that despite the EU's progress in the field of CFSP and EOBP failed to effectively address various conflicts. This concerned the overall development of the situation after the break-up of Yugoslavia and later the evolution of events in Kosovo. In addition, the European Union experienced the largest expansion in history when in 2004 it accepted 10 new members to which later other two joined and from the primary 15 members has grown to 27. This obviously required an improvement of the existing mechanisms and finding new mechanisms and institutions for mutual cooperation and coordination from the EU as an economic as well as political and security cooperation.

In December 2008 in Brussels the Report on the implementation of the European security strategy was adopted – ensuring the security in a changing world, consequently resulting from reception of the first strategy. The report assesses the results achieved since adoption of the Strategy in 2003, points to new risks and dangers in the development of the international-political situation and uses them to formulate new strategic objectives. “The EU continues to harbour stability. With its extension the democracy and prosperity were spread on the continent. The situation is improving on the Balkans as well. The neighbourhood policy established a sound framework for building relationships with partners in the south and the east, while the Mediterranean Eastern Partnership gave it a new dimension. Since 2003, the EU brings a new dimension to the growing crises and conflicts in places such as Afghanistan and Georgia. (Report on the implementation...) The report notes that despite twenty years of post-Cold War Europe is confronted with increasingly complex threats and challenges. The conflicts in the Middle East and other parts of the world were not resolved; the failure of states has a negative impact on Europe's security because of the spread of crime, illegal immigration and even piracy. The constant threat comes from terrorism and organized crime, the role of the current nuclear non-proliferation in the world. All of

these threats affect the security and stability of the European Union and should therefore be developed and implemented as a common approach of countries in the field of policy and strengthen the defence policy.

In this situation the Union responded first, with proper preparation of the so-called EU Constitution that was rejected and which later was transformed into the so-called Treaty of Lisbon. It includes the response to the internal and external challenges of the Union.

Lisbon Treaty

The Lisbon Treaty opens a next stage in the development of the European Union, which covers all areas of integration and brings about the changes in the Common Foreign and Security Policy and the future shaping of the Common Security and Defence Policy.

Significant impact for the Common Foreign and Security Policy is the fact that the European Union has replaced the European Communities and shall have legal personality. "The Union is founded on this Treaty and on the Treaty on the functioning of the European Union (further only "Treaty"). These two treaties have the same legal force. The Union replaced the European Community and is its legal successor." (Art. 1, The EU Treaty as amended by the Lisbon Treaty) This means that the Union can act as a subject in international relations representing the entire community, can sign contracts on behalf of the community, can work in international organizations, etc.

In the treaty the general principles are reiterated on which the Union was founded and which wants to promote it in the rest of the world. Those principles are: "democracy, rule of law, universality and indivisibility of human rights and fundamental freedoms, respect of human dignity, equality and solidarity and abiding the principles of the United Nations Charter and the international law." (Art. 21, par.2, consolidated version of the Treaty on the EU) It also seeks to develop cooperation with the third countries, international, regional or global organizations which profess to similar principles. It promotes multilateral solutions to common problems, particularly within the UN. (Ibidem)

The Lisbon Treaty brings many changes in terms of institutional protection of foreign, security and defence policy, some procedural changes and formulation of ambitious new goals for the future based on experience gained in this field as well as new visions and challenges that the Union is facing in today's globalised world.

The European Union has achieved significant success in the economic, monetary and trading area thus becoming one of the most important actors in world affairs. Counting up to 501.2 million people it makes up to 25% of the world gross domestic product and half of the total provision of development aid. This enormous global potential requires that the Union takes over the responsibility to adequately address the global challenges in order to align its security interests on regional and global level that arises from this position.

Institutional changes in the CFSP and ESDP

Regarding the responsibilities arising from the contract, two new, important posts are constituted which are directly related to the foreign policy of the Union. Those are the President of the European Council and the High Representative of the Union in the sphere of Foreign Affairs and Security Policy.

The President of the European Council had in its original intentions to constitute himself as the Head (President) of the European Union. The creation of this function was supposed to give an answer to the question: whom the states need to address if they want to negotiate with the European Union.

The President of the European Council is elected by the European Council by qualified majority for a term of two and half years, with the possibility to be elected for one more term. (Art. 15, The EU Treaty as amended by the Treaty of Lisbon) This replaced the current rotary principle, in which the presidential function was carried out in six-monthly intervals, by the leaders of the individual Member States. The President of the European Council shall chair the meetings of the Council and drive forward its work; ensures the preparation and continuity of its work in cooperation with the Commission and the work of General Affairs Council; and will aim to facilitate the cohesion and consensus within the European

Council. After each meeting of the European Council it reports to the European Parliament. The President of the European Council at his level and his capacity ensures the external representation of the Union in matters of common foreign and security policy without prejudice to the powers of the High Representative for Foreign Affairs and Security Policy (Art. 6, The EU Treaty as amended by the Treaty of Lisbon)

The rotating presidency of the European Council was cumbersome and could bring some difficulties, for instance, the appeal of the Czech Republic when the Czech Republic served as a President of the Council. But most importantly, it did not secure the necessary continuity of the foreign and security policy, as each presiding country had its own agenda, its own priorities corresponding to its particular interests and ideas. (Exactly this possibility was noted by some authors that enabled the presidential country to raise the profile and to refer to the immediate problems that were of their concern. But it is questionable whether this may just be in the interest of shaping a common foreign policy of the Union.) Personification of this institution can ensure greater continuity in foreign policy. Its major task is connecting various EU institutions; cooperate with the President of the Commission already in the preparation of the Council meeting, reporting to the European Parliament, which should ensure greater consistency in foreign policy. In relation to the members of the European Council is expected to be its policy to promote strong independent policy, power or authority of its character, which will be subordinated and respected from the other members of the Council – Head Representatives of the Member States. In this regard, it is more a function of negotiating the ability to level with senior representatives of Member States and seek mutually acceptable positions. On a meeting of the European Council that took place on the 19.11.2009 as the historically first President, elected unanimously was the former Belgian Prime Minister Herman Van Rompuy.

Another new institution is the creation of a post of the High Representative for Common Foreign and Security Policy. This actually combines the existing posts of the Commissioner for External Relations and the High Representative for Common Foreign and Security Policy. On the same level the function of the High Representative emerged, who was at the

same time the Secretary General of the Council. “The European Council by qualified majority, with the consent of the President shall appoint the High Representative for Foreign Affairs and Security Policy. The European Council may end his term with the same procedure.” (Art. 18, The EU Treaty as amended by the Treaty of Lisbon)

This post is created for the participation of the European Council, the Commission and the European Parliament. The Council plays the key role, meaning the leaders of the Member States are responsible for nomination of a candidate and voting him with qualified majority, but to its final position it needs the approval of the Commission. Moreover, since the High Representative is at the same time the Vice-President of the Commission, thus its full members; he presents a subject of approval procedure in the Parliament as all the candidates for Commissioners. So the creation of this post requires a shared responsibility of all three top institutions and it can be conditioned as a subject of approval. The fact that the High Representative is also the Vice-President of the Commission constitutes a close institutional link between him and the Commission, which is fully engaged in the development of the CFSP.

The High Representative shall preside over the Foreign Affairs Council and is one of the Vice-Presidents of the Commission. He ensures the consistency of EU's external actions. In the scope of the responsibilities deriving from his role in the Commission he is in charge of the incumbent tasks in the area of external relations and for the coordination of the other aspects of EU's external actions. (Art. 18, The EU Treaty as amended by the Treaty of Lisbon)

As Vice-President of the Commission he ensures the coherence and coordination of the activities between the Council and the Commission in questions related to external relations and other aspects of external actions. His proposals contribute to the creation of a common foreign and security policy and ensure the implementation of the decisions taken by the European Council and the Council. Together with the Member States he shall ensure the implementation by using the national funds of the Member States and the Union. He leads the political dialogue with third parties in the name of the Union and expresses position of the Union and represents

the Union in the international organizations and international conferences. The High Representative shall conduct the common foreign and security policy of the Union, with his ideas he brings about the design and development of the policy and carries it out as mandated by the Council. The same applies to the common security and defence policy.

The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament about the main aspects and the basic choices for the common foreign and security policy and the common security and defence policy and inform the European Parliament about the progress of these policies. It ensures that the views of the European Parliament are duly taken into account. Upon briefing the European Parliament can be involved in the division of the special representatives. (Art.36, The EU Treaty as amended by the Treaty of Lisbon)

In general it can be concluded that the chairman of the Council for Foreign Affairs (which is consisted of the ministers for foreign affairs of the member states) contributes with his ideas to the development of the Common Foreign and Security Policy (CFSP) and implements the decisions taken by the European Council and the EU Council, manages the CFSP and the Common Security and Defence Policy, it represents the Union in CFSP issues, ensures the consistency of EU foreign service and the consistency with the other common EU policies and its political orientation, coordinates the foreign service with the Commission, leads a political dialogue with third parties on behalf of the Union, reflects the EU's position in the international organizations and on international conferences, is responsible for the coordination of the military and civilian roles for example during peacekeeping missions.

This function was created to coordinate the foreign, security and eventually the defence policy of the Union, to be able to act as major player in the international-political relations and represent the Union in external relations. The area of common foreign policy is quite sensitive; the Member States enforce even more complex integrative principles, coordination and unification of interests.

At the same time, it becomes essential that the Union takes a place of decent player in international-political relations in Europe and also in the world. The Union is obliged

to respond to challenges such as the formation of a new model of military-strategic balance, the risk of international terrorism, the resolution of local military conflicts, increasing immunity, reducing the risk of nuclear conflict, and so on. As the first representative of the Union for Foreign Affairs and Security Policy, was elected a candidate from the United Kingdom, Catherine Ashton.

In fulfilling his mandate the High Representative is assisted by the European External Action Service (EEAS). This service shall work in cooperation with the diplomatic services of the Member States and should be composed of 1/3 of the body of the General Secretariat of the Council, of 1/3 of the officials from relevant departments and the Commission, and the rest will consist of the national diplomatic services of the Member States. The organization and the functioning of the European External Action Service shall be adjusted by the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission. (Art. 27, Treaty of the EU as amended by the Lisbon Treaty)

The service obligations are couched in general terms in the contract, which is causing some controversy and debate among the representatives of the EU institutions and the Member States, whose views are much different, for example regarding the status of EEAS, the administration services, the management of the EU delegations, and the budgetary aspects of EU crisis management. The service shouldn't be concerned with EU's diplomatic corps, which would replace the national diplomatic services and should not perform the role of bilateral diplomacy inside the EU. Uncertainty is also an agenda that will fall within the competences of the services – whether it would be the entire agenda of the Common foreign and security policy, or it will be limited to certain specific tasks. The question is whether the emergence of an “EU embassies” that would speak on behalf of the whole Union, implement its foreign policy, take its interests, oversee the exercise of the rights of EU citizens in third countries, or will take over the consular and visa agenda as well, which is offered in some countries. Alignment of consular services would be a transparent system of granting visas to the Schengen area which is usually exploited by foreigners, that means that

through another Schengen member countries they want to get the visa, which already refused giving it to them. The consular services provided by the EU delegations would also allow smaller Member States to extend its scope into new states. However, there arises the problem of duplication of the embassies of the Member States.

Procedural rules for the CFSP creation

The Common Foreign and Security Policy are liable in terms of the creation of special rules and procedures. "It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. Adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. (Art. 24, consolidated version of the Treaty on European Union)

The Union shall conduct the common foreign and security policy by:

- (a) defining the general guidelines;
- (b) adopting decisions defining:
 - (i) actions to be undertaken by the Union;
 - (ii) positions to be taken by the Union;
 - (iii) arrangements for the implementation of the decisions referred to in points (i) and (ii);
- and by
- (c) strengthening systematic cooperation between Member States in the conduct of policy. (Art. 25, consolidated version of the Treaty on European Union)

The member states shall actively and unreservedly support the foreign and security policy in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area. Shall cooperate to enhance and develop their mutual political solidarity. They shall refrain from any action which is in contrary to the Union's interests or likely to impair its effectiveness as a cohesive force in international relations. The Council and the High Representative shall ensure the compliance with these principles.

If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments. (Art. 26, consolidated version of the Treaty on European Union) The member states within the European Council and the Council consult on all matters of foreign and security policy of general interest to define a common approach. Through the convergence of their actions they ensure that the Union is able to assert its interests and values on the international scene, to show mutual solidarity.

When the European Council or the Council has defined a common approach of the Union within the meaning of the first paragraph, the High Representative of the Union for Foreign Affairs and Security Policy and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council. The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach. (Art. 32, consolidated version of the Treaty on European Union)

From a procedural point of view, the European Council and the Council unanimously adopted a decision, but the principle of constructive abstention remains rooted which is defined as follows: "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." (Art. 31, consolidated version of the Treaty on European Union) Another policy is also anchored which says that if 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.

By derogation from the provisions of paragraph 1, the Council shall act by qualified majority:

— when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article 22(1),

— when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request from the European Council, made on its own initiative or that of the High Representative,

— when adopting any decision implementing a decision defining a Union action or position,

— when appointing a special representative in accordance with Article 33. (Art. 31 par. 2, consolidated version of the Treaty on the European Union)

Even in case of majority voting policy there is a built insurance that allows the decision to be suspended in necessary cases.

If a member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. The High Representative will, in close consultation with the Member State involved, search for a solution acceptable to it. If he does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity. This means that in case of urgent interest of some of the countries, the decision can be reviewed and re-weighed.

Coordination in international organizations

Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the Union's positions in such forums. The High Representative of the Union for Foreign Affairs and Security Policy shall organise this coordination. In international organisations and at international conferences, where not all the Member States participate, those which do take part shall uphold the Union's positions. Member States represented in international organisations or international conferences, where not all the Member States participate, shall

keep the other Member States and the High Representative informed of any matter of common interest.

Member States which are also members of the United Nations Security Council will concert and keep the other Member States and the High Representative fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.

When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be invited to present the Union's position. (Art. 34, consolidated version of the Treaty on European Union)

Common Security and Defence Policy

With the Lisbon Treaty entry into force, the European Security and Defence Policy have changed into the Common Security and Defence Policy (CSDP). According to the Lisbon Treaty, the CSDP shall be an integral part of the common foreign and security policy, and it shall provide the Union with an operational capacity drawing on civilian and military assets. The treaty creates the institutional conditions for the common defence, if it is decided unanimously by the European Council. Member States shall make civilian and military capabilities available to the Union in peace-keeping missions, conflict prevention and strengthening international security in accordance with the principle of the United Nations Charter. (Art. 42, consolidated version of the Treaty on European Union)

This doesn't mean that a common army will be created, but that the Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them

available to the common security and defence policy. (Art. 42, consolidated version of the Treaty on European Union)

The Common Security and Defence Policy provide the Union with operational capacity drawing on civilian and military assets. The Union can use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. In performing these tasks the capabilities provided by the Member States are being used.

At the proposal of the High Representative for Foreign Affairs and Security Policy or at the initiative of a Member State, the Council unanimously adopts decisions related to the common security and defence policy, including the decision on launching a mission.

Mission, in 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 territories. (Art. 43, consolidated version of the Treaty on European Union)

In the implementation of the missions so-called Institute of structured cooperation is being used. It means that the Member States which wish to participate in the permanent structured cooperation, 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. Within three months following the notification the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the High Representative. (Art. 46, consolidated version of the Treaty on European Union) The Council may entrust in the framework of the Union the group of Member States that carries out the mission to preserve the Union's values and to

serve its interests. States which are capable of meeting the most demanding tasks establish structured cooperation.

In the treaty the principle of collective security is also enshrined. The High Representative may, where appropriate together with the Commission to propose the use of domestic resources, as well as the instruments of the Union. "If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States." (Art. 42, consolidated version of the Treaty on European Union) It is a provision that guarantees collective security in the EU countries and it is analogue to article 5 of the North Atlantic Treaty. The policy of the Union shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organization (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework. (Art. 42 par. 2, consolidated version of the Treaty on European Union)

It is important to stress that the European Security and Defence Policy since its formation is closely linked with NATO's activity. It is only logical because most of the EU countries are also members of NATO where they also have their duties and responsibilities. Therefore, there are efforts for common coordination of the actions of the ESDP and NATO and as separate organizations. Moreover, it is convenient to use similar promotions and logistics support, the experience and the information that NATO has.

These include three main elements directly associated with the operations that can combine: the EU approach to the planning of NATO, access to the European command of NATO and its possible use (in case the EU requests the military operation can be lead under the command of NATO) and use of resources and NATO capabilities.

At the same time, the process of wrinkling the Western European Union (WEU) into the European Union was completed, thus announcing the death of the WEU in March

2010. This means that the military capabilities as well as management and planning structures are integrated into the existing mechanisms of the ESDP.

European Defence Agency

Important part of the Common Security and Defence Policy is the European Defence Agency (EDA). EDA was established by the Joint Action from the Council on 12.7.2004 and its goals include a large range of issues related to security and defence policy. The main objectives included:

- Improving the EU's defence capabilities, particularly in terms of crisis management;
- support European armaments cooperation;
- strengthen the defence, industrial and technological base of the EU and create a competitive European Defence Equipment Market;
- support research to strengthen industrial and technological potential in the defence of Europe.

Among the main objectives of the establishment of the Agency the creation of a complex system of definition and implementation of ESDP was included: the deepening of cooperation between Member States in the defence, mutual assistance in the overall restructuring of the defence industry. Another important area was to support European research and technology taking into account the European political priorities, and developing, in cooperation with the European Commission of a competitive European defence equipment market. One of the first real results of EDA's work is an agreement on the adoption of a voluntary code under which member states disclose information about defence contracts for electronic equipment managed by the EDA board. The aim is to ensure transparency of the criteria for selection of tenders and decisions on contracts in the country, which ultimately contribute to the creation of a single European market for defence technologies. To ensure the national security the general rules of free trade in the Single European Market did not apply for the defence industry sector.

The second initiative was the creation of joint European projects in the field of security research and development which will be financed from a fund established by the

voluntary contributions of the network, their share of total defence spending is still very small.

The Lisbon Treaty revitalizes the goals and missions of the European Defence Agency in article 43 paragraph 3 as follows: a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States; b) promote the harmonization of operational needs and adoption of effective, compatible procurement methods; c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of programmes implemented by the Member States and management of specific cooperation programmes; d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs; e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

The European Defence Agency shall be open to all the Member States wishing to be part of it. Specific groups shall be set up within the Agency bringing together Member States engaged in the joint projects. The Agency shall carry out its tasks in liaison with the Commission, where necessary. (Art. 45, consolidated version of the Treaty on European Union)

The leader of the Agency and Chairman of the Management Committee is the High Representative for Foreign Affairs and Security Policy. Other members of the Committee are the Defence Ministers of the 26 Member States (with the exception of Denmark) and the President of the European Commission. It may also meet at a lower sub-ministerial level. The Committee is subordinate to the Council and operates under the guidelines issued by the Council. The main shareholders are the Member States participating in the Agency. Key stakeholders include the European Council and EU Commission, as well as third party as OCCAR (Organization for Joint Armament Cooperation), Lol and NATO.

Building the EDA there raises a whole series of problems and different approaches. Building of defence capacities has always been in the competency of national states, which jealously guarded them and were seen as a key

instrument of the state sovereignty. Therefore, this barrier is hard to break, although it is clear that coordination and joint action, combining capacity is much more efficient. It is questionable to which extension the market mechanisms and state interventionism could be used, how to behave in case of unification of weapons and information systems, to which extent to coordinate the process with NATO. Batora points out that the formation of EDA reflects on all relevant approaches of the security and defence policy: "There are tensions between the logic of supranational regulation and the logic of intergovernmental networking; between the logic of defence sovereignty and the logic of pooled defence resources; between the Europeanist and the Euro-Atlanticist logic; and finally between the logics of liberalization and Europeanization of the defence market." (Batora, 1076) That is why it is quite difficult to find compromises.

Contribution of the Lisbon Treaty to the CFSP and CSDP

The Lisbon Treaty marks another significant step in profiling the CFSP and CSDP. An important change is that the Union has acquired legal personality, which authorizes it to act on its behalf in international relations, conclude contracts, and negotiates with third parties. From an institutional perspective two new positions were created – the President of the Council and High Representative for CFSP, which are designed to address not only the personification of the Union, its external representation to third countries, but also to specify their particular role and mission in the design and implementation of CFSP and CSDP. These posts provide further connections between the Community and intergovernmental cooperation, deeper involvement of other organs of the Union in the CFSP, which makes it possible to achieve continuity and consistency.

It also introduces new elements into the common policy making processes, expands the possibilities of qualified majority voting, but leaves the emergency brakes to the Member States in the event of disagreement. It formulates procedures for structured cooperation and implementation of missions for security instances and restore peace, enshrines the principle of collective defence, it gives new impetus to the

cooperation between the Member States within the EDA, which creates the necessary background for the defence potential, and its success in the future will depend heavily on defence and potential intervention of the European Union.

EBOP and its structure are anchored in the institutional frame of the EU, procedures and structures for decision making in crisis management, building and development of military and civilian capabilities, civil-military organization were established. Military operations in the CSDP through which the EU can effectively intervene in crisis areas, comprise both evacuation and humanitarian operations, but also keeping operations or enforcement of peace, civilian operations in crisis areas, focusing primarily on the restoration of the security sector institutions, administrative structures and human rights.

REFERENCES

A Secure Europe in a Better World - European Security Strategy.

Brussels, 12 December 2003. 12.4.2010, on:

<http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>

Amsterdamská zmluva, ktorá mení Zmluvu o Európskej únii, Zmluvy o založení Európskych spoločenstiev a niektoré súvisiace akty.

15.4.2010, on: [http://www.nrsr.sk/Static/sk-](http://www.nrsr.sk/Static/sk-SK/EU/Doc/amsterdamska-zmluva.pdf)

[SK/EU/Doc/amsterdamska-zmluva.pdf](http://www.nrsr.sk/Static/sk-SK/EU/Doc/amsterdamska-zmluva.pdf)

Bátora, J.(2009) European Defence Agency: A Flashpoint of

Institutional Logics. In: *West European Politics*. Vol. 32, No. 6, 1075 – 1098.

Bezpečná Európa v lepšom svete. Európska bezpečnostná stratégia.

Brusel 12.december 2003. 29.4.2010, on

<http://www.consilium.europa.eu/uedocs/cmsUpload/031208ESSIISK.pdf>

EU-UN co-operation in Military Crisis Management Operations

Elements of Implementation of the EU-UN Joint Declaration Adopted by the European Council (17-18 June 2004) 25.4.2010, on:

<http://www.consilium.europa.eu/uedocs/cmsUpload/EU-UN%20co-operation%20in%20Military%20Crisis%20Management%20Operations.pdf>

European Defence: NATO/EU Consultation, Planing and Operations.
20.4.2010, on:
<http://www.consilium.europa.eu/uedocs/cmsUpload/78414%20-%20EU-NATO%20Consultation,%20Planning%20and%20Operations.pdf>

Fries,F.(1998) *Velké evropské rozpravy.* (Praha, HZ Editio)

Gaedtke, J,-Ch. (2009) *Europäische Aussenpolitik.* (Paderborn, Ferdinand Schoeningh).

Hix, S. (2005) *The Political System of the European Union.* (New York, Palgrave Macmillan).

Charta základných práv Únie. Úradný vestník Európskej únie. C 310/41 16.12.2004. 12.4.2010, on: <http://eur-lex.europa.eu/sk/treaties/dat/32007X1214/htm/C2007303SK.0100101.htm>

Konsolidované znenie Lisabonskej zmluvy. Úradný vestník Európskej únie. C 115, zväzok 51, 9. mája 2008 (2008/115/01) 26.4.2010, on: <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:SK:HTML>

Nugent, N.(2003) *The Government and Politics of the European Union.* (New York, Palgrave Macmillan)

Nuttall, S.J.(2000) *European Foreign Policy.* (Oxford, Oxford University Press).

Ondrejcsák, R., Nečej, E. (Eds.) (2004) *Bezpečnostná stratégia Slovenskej republiky po vstupe do Severoatlantickej Aliancie a Európskej únie (východiská a prístupy).* (Bratislava, Institut bezpečnostných a obranných štúdií Ministerstva obrany)

Revidovaný mechanizmus tvorby stanovísk k návrhom aktov schvaľovaných Radou EÚ v podmienkach Slovenskej republiky.
25.4.2010, on:
D:\EÚ_bezpečn_stratégia\Rev_mech_tvorby_stanovísk_ER.mht

Smith, M.(2006) *European Foreign and Security Policy.* In: Bromley, S. (ed): *Governing the European Union.* (London, Sage Publications).

Správa o vykonávaní Európskej bezpečnostnej stratégie – zaistenie bezpečnosti v meniacom sa svete. V Bruseli 11. decembra 2008
S407/08. 28.4.2010, on:
http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/SK/reports/104649.pdf

Sandholtz, W., Stone Sweet, A.(eds.) (1998) *European Integration and Supranational Governance.* (Oxford, Oxford University Press)

Štatút Ministerskej rady vlády Slovenskej republiky pre záležitosti Európskej únie. 24.4.2010, dostupné na:
D:\EÚ_bezpečn_stratégia\Štatút_MRV_pre_EU.mht

Úspešné Slovensko v bezpečnom svete – stratégia MZV SR. 15.4.2010, dostupné na:
[http://www.foreign.gov.sk/App/wcm/media.nsf/vw_ByID/ID_E64D391723AD1CCFC1257648004601A5_SK/\\$File/Strategia%20MZV%20definit%20260208.pdf](http://www.foreign.gov.sk/App/wcm/media.nsf/vw_ByID/ID_E64D391723AD1CCFC1257648004601A5_SK/$File/Strategia%20MZV%20definit%20260208.pdf)

Zmluva o Európskej únii (92/C191/01). 25.4.2010, on: <http://eur-lex.europa.eu/sk/treaties/dat/11992M/word/11992M.doc>

Wallace,W.(eds) (1996) *Policy-Making in the European Union.* (Oxford, Oxford University Press).