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## Contents

*Anatolij Romanyuk*

SHIFT IN ELECTORAL SUPPORT AT THE 2019 PRESIDENTIAL AND SNAPPARLIAMENTARY  
ELECTIONS IN UKRAINE ..... 6

*Adam Krzymowski, Kinga Krzymowska*

LISBON TREATY (2009-2019) ON THE JOURNEY TO ACHIEVE THE EUROPEAN UNION  
AS AN EFFECTIVE GLOBAL ACTOR..... 16

*Zbigniew Białobłocki*

THE FEATURES OF THE METHOD AND METHODOLOGY OF STUDYING THE STABILITY AND EFFICIENCY  
OF GOVERNMENTS IN COMPARATIVE POLITICAL SCIENCE: THEORETICAL CUT..... 35

*Vira Burdyak*

THE CHARACTERISTICS OF THE ACTIVITIES OF MODERN POLITICAL PARTIES AND THE DEVELOPMENT  
OF THE PARTY SYSTEM IN THE REPUBLIC OF BULGARIA..... 51

*Irena Gałka*

ELECTORAL SUCCESS AND IDEOLOGIES OF AGRARIAN PARTIES IN CENTRAL-EASTERN EUROPEAN  
PARLIAMENTARY DEMOCRACIES (1990–2015) ..... 69

*Vitaliy Lytvyn*

THE EVOLUTION, LOGICS, VARIATIONS AND IMPROVING OF THE ACTUAL (POLITICAL AND  
BEHAVIORAL) TYPOLOGY OF SEMI-PRESIDENTIALISM: THE ORGANIZATION AND MANIFESTATIONS  
ON THE EXAMPLE OF THE EUROPEAN COUNTRIES..... 90

*Oksana Szurko, Switlana Bula*

MIT JAKO INSTRUMENT MANIPULACJI POLITYCZNEJ ..... 119

*Tomasz Białobłocki*

THE FEATURES, PRECONDITIONS AND CONSEQUENCES OF THE RUSSIANS' ETHNIC IDENTITY AND  
POLARIZATION IN THE POST-SOVIET COUNTRIES (1991-2000) ..... 133

*Svitlana Matvienkiv, Olha Anisimovych-Shevchuk*

INFLUENCE OF EXTERNAL AND INTERNAL FACTORS ON THE INFORMATION SPACE OF MODERN-DAY UKRAINE..... 149

## **Lisbon Treaty (2009-2019) on the Journey to Achieve the European Union as an Effective Global Actor**

The aim of the article is a deep analysis of the role and importance of the Lisbon Treaty during 10 years of operation for the implementation of the Common Foreign and Security Policy and the global position of the European Union. The study conducted by the authors assumed that the treaty gave the European Union more institutional tools, but without political impulses and the political will to deepen cooperation and integration in this area. Scientific research was based on specific examples, which clearly showed, in conclusions, that the European Union is still not ready to build strategic autonomy, and the Treaty of Lisbon has even stopped this process.

*Keywords: Lisbon Treaty, CFSP, CSDP, EU as a global actor*

## **Traktat z Lizbony (2009 – 2019) w drodze do osiągnięcia pozycji skutecznego globalnego aktora przez UE**

Celem tego artykułu jest wnikliwa analiza roli i znaczenia Traktatu z Lizbony na przestrzeni 10 lat jego funkcjonowania w zakresie wspólnej polityki zagranicznej i bezpieczeństwa oraz ze względu na pozycję Unii Europejskiej w polityce globalnej. Przeprowadzone przez Autorów badania zakładały, że Traktat dał Unii Europejskiej więcej narzędzi instytucjonalnych, ale żadnych impulsów politycznych oraz woli politycznej do pogłębienia współpracy i integracji w tej dziedzinie. Badania naukowe zostały oparte na konkretnych przykładach, które wyraźnie wykazały we wnioskach, że Unia Europejska nadal nie jest gotowa do stworzenia strategicznej autonomii, a Traktat lizboński nawet zatrzymał ten proces.

*Słowa kluczowe: Traktat z Lizbony, WPZiB, WPBiO, UE jako globalny aktor.*

### **Introduction**

The signing of the Lisbon Treaty in December 2007 marks the end of a particular review process that began after the Nice Treaty, signed on 26 February 2001. This faced with the need

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<sup>2</sup> Kinga Krzymowska graduated BA, International Studies with French at the University of Buckingham in UK. Currently she is conducting a research in international law as a LLM student at University of East Anglia in UK.

to get the European Union out of the crisis caused by French and Dutch rejections of the Constitutional Treaty. This amending treaty is the result of a compromise, which makes it possible at the same time to safeguard the main “acquis”<sup>3</sup> of the European Constitution. Moreover, the speed of the process of drafting and ratifying the treaty symbolises the existence of a certain weariness of heads of state or government in European institutional debates. The Reform Treaty and the Constitutional Treaty remains independently of the constitutive process that is characterised with an international treaty<sup>4</sup>. There is a clear evolution on the political level, a change of philosophy which finds a translation blatant legality in a return to the forefront of the State, and more precisely the sovereignty of Member States, within the European Union. This deep national withdrawal into the treaties can be seen as the legal translation of a message aimed at assuring citizens that the European Union does not tend to question the sovereign powers of their nation-state. In this respect, it is not surprising that the “new” Union established by the Lisbon Treaty is based solely on the wishes of the signatory states. It is no longer mentioned, as did Article 1 of the European Constitution, the will of citizens as a founding source of the European Union. Hence, it has been witnessing a consolidation of state legitimacy at the expense of democratic legitimacy, while the democratic deficit is one of the usual criticisms of the Union<sup>5</sup>.

On December 1, 2019, will be 10 years of the functioning of the Lisbon Treaty. The subject of the research is the Lisbon Treaty, CFSP as primary legislation with additional analysis of secondary legislation in the context of the EU actions to address global challenges within the CFSP. Therefore, the present work investigated initiatives on European strategic autonomy as well as the interference of the Lisbon Treaty on the Common Foreign and Security Policy. Moreover, understanding and pointing out the difficulties of European foreign policy could serve as a basis for understanding regional integration processes in the rest of the world, or even follow the line of EU studies as a future global player unitary<sup>6</sup>. In this sense, we first analysed the legislative-institutional changes introduced by the Treaty of Lisbon to the rules relating to the “Foreign Policy and Common Security Policy (CFSP)”, in order to assess whether these changes have concrete actions of the EU, as a unitary actor, outside the borders of Europe; from these two points, the limits and possible perspectives of the European Union as a unitary actor, though, also, the contribution of theories of International Relations, and finally asked what the difficulties of the bloc were.

The research focuses on enhanced cooperation, which can be implemented under the “non-exclusive EU competences”, taking into account the provisions of art. 10 and following the procedure set out in article 280a-280i. Another important area of research is the solidarity

<sup>3</sup> The accumulated legislation, legal acts, and court decisions which constitute the totalbody of EU law. (<https://www.yourdictionary.com/acquis>)

<sup>4</sup> See: F.Laursen, “The EU’s Common Foreign and Security Policy (CFSP) after the Lisbon Treaty: Supranational Revolution or Adherence to Intergovernmental Pattern?; Laursen F. (ed.) in *The EU’s Lisbon Treaty*, Routledge, 2016, pp. 67-87.

<sup>5</sup> See: J.Howorth, “The Lisbon Treaty, CSDP and the EU as a security actor’ *The EU’s Foreign Policy*, 2016, pp. 83-94.

<sup>6</sup> S. Maxwell, ‘What Role Does the European Union Play in International Development?’, Rapid Response, Issue 14, 2016,

clause (new Title VII and article 188r). According to art., 28a, paragraph 7, if any Member State is subjected to armed aggression on its territory, the other Member States shall be under an obligation to provide assistance and assistance by all means available to them under article 51 of the United Nations Charter.

The research was conducted using a descriptive-analytical method. The researchers analysed source materials, research materials on the subject, as well as observations of personal diplomatic activities in multilateral fora. Besides, a wide range of theoretical instruments is used to investigate this issue, to analyse the problem in the multilevel approach to international relations. Moreover, this research on the neorealist theory of international relations, the concept of international constellations analysis. The theory of neo-institutionalism, on the other hand, allowed for precise typologisation of general and specific functions of international security institutions. Even though the constructivist theory is primarily based on national constellations, it ascribes even more significance to international institutions and their supernationally anchored norms and ideas than the rational institutionalism does. For that reason, it was also taken into consideration. In these analyses, the school of the social constructivism theory was also utilized. Authors put research questions: What was the problem with regarding CFSP to which the Treaty of Lisbon was proposed as an answer? Has the Treaty of Lisbon contributed to the success of the CFSP? Conducting the research, authors put a thesis that the Lisbon Treaty contributed to the expansion of the CFSP administrative apparatus, while it was decreasing the process of building strong Union's common foreign and security policy. In the following years, there will be a broader and deeper discussion on the Treaty changes, which will cause further regression of CFSP.

### **Research Background**

In the post-Second War earliest years, western European countries have started the process of economic and institutional consolidation and political strengthening of itself. However, the United States of America utilised European integration to realise American interests. The EU was then focused on strengthening itself through "internal" policies such as the common market, monetary union and European agricultural policy. However, after the end of the Cold War, the world changed. Despite the crisis, internal institutionalisation is already reasonably strong, so that no setbacks can be discerned in the horizon large to affect the overall structure of the block<sup>7</sup>.

However, the main dispute regarding the future of EU is among the proponents of supranational federalism and advocates of inter-governmentalism, without renouncing national states. Since the 1990s, EU has already concluded numerous agreements with most of the countries, which denotes an international presence<sup>8</sup>, even if the Treaty of Maastricht (1992)

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<sup>7</sup> See: H. Mayer, 'The challenge of coherence and consistency in EU foreign policy', *The EU's Foreign Policy*, 2016, pp. 123-136.

<sup>8</sup> An example of it is Partnership and Cooperation Agreement between the European Communities and their member states, and Ukraine (signed 14/06/1994). Another example is Association Agreement with Egypt, Georgia, Jordan, Israel, South Africa, Chile.

did not explicitly recognise this possibility and that the international legal personality was, questioned. However, the Common Foreign and Security Policy still need to be modified and strengthened. After the fall of the Berlin Wall, European states decided to pay more attention to non-economic points of integration in the light of new challenges they could encounter. Treaty on European Union (Maastricht Treaty, 1992) defined the Union of (1948), an organisation created for the defence of the continent during the Cold War, part of the EU in a field of defence. Although the European Union had brought a more political integration, until the decisions relating to this intergovernmental rather than community and supranational, the EU cannot have effective Common Foreign and Security Policy<sup>9</sup>. This occurrence was because EU had strategic ambitions as a civilian power to reduce tensions and achieve lasting peace on the continent, between member states and potential new members in Eastern Europe; rather than being strengthened with the use of hard power<sup>10</sup>.

Shortly after the decision EU leaders on building Common Foreign and Security Policy, Yugoslav civil war occurred with ethnic cleansing and genocide. Europeans could not participate in the solution because of a lack of political will and internal cohesion, and once again they needed US help. The concept of civil power<sup>11</sup> was insufficient and the factor of threats changed and became global: instead of Soviets; thus the Europeans began to worry about illegal mass migrations, fundamentalism and organised crime and terrorism. In this context, the Treaty of Amsterdam (1997), brought two major innovations; the Representative of the Union for Common Foreign and Security Policy and the Petersberg, which regulated the European Union's role in humanitarian missions, evacuation, peacekeeping and crisis management. Amsterdam Treaty encouraged member states on the development of an autonomous capacity to enable the EU to respond to international crises<sup>12</sup>, as well as strengthening the EU's operational capabilities outside<sup>13</sup>. A few months after the Office of the EU High Representative for the Common Foreign and Security Policy, Javier Solana introduced the CSDP / ESDP as the EU's major project of the next century<sup>14</sup>.

Since the September 11, 2001 attacks, the task of building European defence capabilities has become more urgent and increasingly complex<sup>15</sup>. February 1, 2003, the Treaty of Nice entered into force. Its provisions have strengthened and developed operative CSDP components already

<sup>9</sup> See: A.Krzyszowski, 'The beginnings of the construction process of European autonomy in security and defence' *Academy of National Economy Scientific Journals* No 9, 2007, pp. 171-181.

<sup>10</sup> See: M.Riddervold, '(Not) in the hands of the member states: How the European Commission influences EU security and defence policies', *JCMS: Journal of Common Market Studies*, Wiley Blackwell 54(2), 2016, pp. 353-369.

<sup>11</sup> The collective power of the people or the commonwealth. (<https://www.yourdictionary.com/civil-power>)

<sup>12</sup> L. Lonardo, 'The political question doctrine as applied to common foreign and security policy', *European Foreign Affairs Review* 22(4), 2017, p. 575.

<sup>13</sup> C. Grant, 'A European view of ESDP, 10 September 2001', Prepared for the IISS/CEPS European Security Forum, 2001, pp. 1-2. (<http://www.endec.org/grant.htm>)

<sup>14</sup> C. Hill, 'What is to be done? Foreign policy as a site for political action', *International Affairs* no 2, 2003, p. 239.

<sup>15</sup> N.Gnesotto, 'Terrorism and European integration', *Newsletter* 35 ISS – Paris, 2001.



as an independent project of the European Union<sup>16</sup>. The Treaty of Nice was a political compromise. The mutually exclusive concerns of EU members reached on the one hand concerns about the reduction of the civilian element at the expense of the expansion of the EU military component. On the other hand, others advocated a clear profile of the CESDP as a natural element in building the EU's autonomous military power with its global involvement. Still, others represented the view that Europeans should make a greater contribution to NATO, and that its foundation would be a CSDP<sup>17</sup>.

Assembly and argued that the international community had come to a “fork in the road”. Consequently, as early as 2003, the EU intends to put CSDP at the service of United Nations peace operations. Two concepts of operation are then born: Bridging model and Stand-by mode. The first designates the operations to ensure the “interim” during the reinforcement of a UN peace operation or preceding its deployment. The second refers to the possible support, by an EU force in rapid reaction mode or “*beyond the horizon*”, to a UN operation. This approach undoubtedly favours operations under the political control and strategic direction of the EU. In the case of bridging operations, if the possibility exists to make some of its contingents available to the UN once the EU operation is over (re-hatting), this option is left to the discretion of each Member State and is not the subject of a European position<sup>18</sup>. The EU in December 2003 adopted the European Security Strategy (ESS)<sup>19</sup> - a first for the EU - not only provides a broader scope for the crisis management and conflict prevention policy that the EU is then starting to take on the ground. US-led invasion of Iraq in 2003 highlighted the need for a common strategic vision to enhance internal cohesion at EU level. Moreover, on 1 May 2004 ten new countries with a combined population of almost 75 million joined the EU. The 25-member EU now forms a political and economic area with 450 million citizens and includes three former Soviet republics (Estonia, Latvia and Lithuania), four former satellites of the USSR (Poland, the Czech Republic, Hungary and Slovakia), a former Yugoslav republic (Slovenia) and two Mediterranean islands (Cyprus and Malta). It was new opportunities as well as new challenges for the effectiveness of the Common Foreign and Security Policy of the EU<sup>20</sup>.

## European Constitution

The next step in the consolidation of EU foreign policy was the European Constitution (2004), which sought to make continental integration more explicit, between all States. A new strategic concept emerged that the EU should not only act as a civil power but as a global

<sup>16</sup> F.Pastore, 'Internal – external security policy coordination in the European Union', *Occasional Paper* 30, Institute for Security Studies, 2001, p. 5.

<sup>17</sup> J.Mawdsley, 'Die Europäische Sicherheit- und Verteidigungspolitik in einer kooperativen Weltordnung', in C. Hauswedell/Ch. Weller/U. Ratsch/ R.Mutz/ B. Schoh (ed.), Münster, Hamburg, London, 2003.

<sup>18</sup> See: Y.Devuyt, 'The European Parliament and international trade agreements: Practice after the Lisbon Treaty' in I Govaere, E Lannon, PV Elsuwege & S Adam (eds) *The European Union in the World*, Leiden/Boston: Martinus Nijhoff Publishers, 2014, pp. 171-189.

<sup>19</sup> <http://ue.eu.int/solana/docs/031208ESSIIIDE.pdf>

<sup>20</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Ae50017>

power. Since the Constitution was rejected in France and the Netherlands, A new strategic concept emerged that the EU should not only act as a civil power. Since the EU Constitution was rejected in France and the Netherlands, the European leaders had a new option of bringing as many innovations as possible into the Treaty of Lisbon<sup>21</sup>. However, a unitary foreign policy is a matter more sensitive to the sovereignty of States than the domains of intra- blockade or freedom of movement, and it is understandable that further progress slowly than the integration steps already overcome.

The Treaty of Lisbon virtually recaptures the content and substance of the Constitutional Treaty and leaves behind the elements of a more federalist and symbolic nature<sup>22</sup>. Thus, the Reform Treaty abandons the term 'constitutional', the reference to the EU anthem, flag and motto, the existence of 'laws' instead of regulations, and the figure of the EU Foreign Minister. In addition to these elements, the Charter of Fundamental Rights is also removed from the text of the Treaty, with only a reference to it giving equivalent legal value. However, the letter will not apply to the United Kingdom or Ireland at the will of the two Member States. In short, what the Reform Treaty does not have, regarding the Constitutional Treaty are the symbolic elements. Moreover, at first sight, in practical terms, it may not mean much with the lack of these elements. However, it should be remembered that power is symbolic, and the symbol creates power. For example, name of the treaty as a constitution (Constitutional Treaty) or position of the president of the European Union (according to the Lisbon Treaty president of the European Council) are very symbolic because this terminology mainly belongs to a state and demonstrates the realization of the federalization process. And that mark was lost by not transposing those elements into the Reform Treaty. The European construction consists of small steps, advances and retreats, negotiations, agreements, and political and diplomatic concessions<sup>23</sup>. And this treaty mirrors this increasingly complex and difficult EU consensus reality as the EU is increasingly being extended to a greater number of States.

In the draft Constitutional Treaty, the ESDP evolves into the Common Security and Defense Policy (CSDP), which is considered an integral part of the CFSP, and which includes the progressive definition of a common EU defence policy which will lead to a common defence when so decided by the European Council. The new PSDC deals with the so-called 'Petersburg missions', but extends its scope to stabilization missions at the end of the conflict, to the fight against terrorism, including actions in third countries. The Constitutional Treaty also provides for 'structured cooperation' which allows groups of Member States to make stronger commitments on security and defence, including mutual defence commitments. This possibility

<sup>21</sup> See: M.Riddervold, and G.Rosén, 'Trick and treat: How the Commission and the European Parliament exert influence in EU foreign and security policies', *Journal of European Integration* 38(6),2016, pp. 687-702.

<sup>22</sup> G.Majone, 'European integration and its modes: Function vs. territory', *BlogActivEU, the Academic Research Network on Agencification of EU Executive Governance (TARN)*, 2016.

<sup>23</sup> See: A.Herbel, 'Parliamentary scrutiny of the EU's Common Foreign and Security Policy' *West European Politics* 40(1), 2017, pp. 161-182.

of structured cooperation, even more, restrictive than the so-called enhanced cooperation, is pointed out by critics as the consecration of a Europe at various speeds that would result from the Constitutional Treaty.

The same author also mentions that in the draft Constitutional Treaty, the common commercial policy is replaced by cooperation with third countries and humanitarian aid. The principles and objectives of the CFSP (Article III-195) are strengthened concerning existing provisions, emphasizing the need for greater Union cohesion in international relations. The CFSP legal instrument will be the European decision and unanimity remains the general rule of decision making, although some cases will be considered where a qualified majority (Article III-201) will suffice. But the big news is the EU MOU<sup>24</sup>.

### **Lisbon Treaty**

On 1 December 2009 entered into force the Treaty of Lisbon (signed on 13 December 2007). The Treaty of Lisbon was not as ambitious as the European Constitution but also sought to bring more coherence to the EU. In this regard, Koutrakos<sup>25</sup> stated that among the prior problems to the treaty, such as legal personality of bloc and its discrepancies at the end make differences at European level on the CFSP. As per above statement<sup>26</sup>, illustrates that the union must ensure the consistency of its external activities in a context of its external relations and its economic, security and development policies, thus observing horizontal coherence. The Council (intergovernmental executive) and the Commission (supranational executive) is responsible for compliance with this principle. On the other hand, member states need to support foreign and solidarity, and mutually, without opposing the interests of the Union or to impair its effectiveness at the international level, thus vertical coherence. The researcher identified that the Council is responsible for compliance with the abovementioned principle.

The Lisbon Treaty maintained the principles of horizontal and vertical coherence, with slightly modified language. According to article 21, paragraph 3 of Lisbon (horizontal coherence); "*The Union shall ensure consistency between the different areas of its external action and between these and its other policies*". Article 24, paragraph 3, states on vertical coherence: the Member States shall actively and unreservedly support foreign and security of the Union in a spirit of loyalty and mutual action in this area<sup>27</sup>. The Member States shall act in a concerted manner to strengthen and develop mutual political solidarity. The Member States shall refrain from taking any action contrary to the interests of the Union or likely to impair its effectiveness as

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<sup>24</sup> See: J. Jokela, 'The European Union as an international actor: Europeanization and institutional changes in the light of the EU's Asia policies', in Warkotsch A. (ed.) *The Role of the European Union in Asia*, pp. 57-74, London: Routledge, 2016.

<sup>25</sup> PKoutrakos, *The European Union's Common Foreign and Security Policy After the Treaty of Lisbon*, Stockholm: Swedish Institute for European Policy Studies, 2017.

<sup>26</sup> See: FLaursen, 'The EU's Common Foreign and Security Policy (CFSP) after the Lisbon Treaty: Supranational Revolution or Adherence to Intergovernmental Pattern?', F. Laursen (ed.) in *The EU's Lisbon Treaty*, 67-87, Routledge, 2016.

<sup>27</sup> See: M. Smith, 'Does the Flag Still Follow Trade? Agency, Politicization and External Opportunity Structures in the Post-Lisbon System of EU Diplomacy', *The Hague Journal of Diplomacy* 13(1), 2018, pp. 41-56.

a coherent force in international relations. In this regard<sup>28</sup>, observed and stated that the High Commissioner is also responsible for the Commission and Council, and vertical consistency with the Council. It is also noted that neither Article 21 nor Article 24 of the Treaty of Lisbon is legally enforceable since they are not under the jurisdiction of the European Court of Justice, unlike Articles 3 and 11 of the Treaty of Nice. Besides, the obligation of States to provide support and loyalty to the Union is relativised by declarations 13 and 14 of the Treaty of Lisbon concerning the CFSP.

Lonardo<sup>29</sup>, pointed out the statement 13 of the treaty and provides: The Conference stresses a provision of the Treaty on European Union relating to common foreign and security policy do not affect member state responsibilities. Statement 14 reiterates the provisions relating to common foreign and security policy, affect the current legal basis, responsibilities and powers of each Member. Concerning the formulation and conduct of its foreign policy, its national diplomatic services, relations with third countries and participation in international organisations, in particular as a member of the United Nations Security Council. Erdağ<sup>30</sup>, questioned how to further convergence and solidarity would be possible if the CFSP explicitly addresses the formulation of foreign and security policies of member individually. In this regard, an Article 34 of Lisbon treaty, on the other hand, states that if the Union has an opinion on a United Nations agenda, member states in the Security Council should request the presence of the high representative to discuss the issue, which conflicts with Declaration 14.

### **Legal personality**

Bevir and Phillips<sup>31</sup> points out that unlike the draft of the constitution for the EU (2004), the Treaty of Lisbon (2009) retained the dichotomy present in the Treaty Maastricht (1992) concerning the Union's basic legal documents. The Treaty on European Union [Maastricht] was replaced by the Treaty of Lisbon. Then, the members of the EU decided to keep also the foundations of Treaty establishing the European Community (TEC) by renaming it as the Treaty on the Functioning of the European Union. However, the CFSP continues in the inter-governmental sphere of EU (new union treaty, unanimity); was not integrated, such as "Judicial and Police Cooperation" for a question. The Treaty on Functioning of the EU, which, in turn, defines supranational operates by qualified majority.

Before the Treaty of Lisbon, there was a discussion on whether or not the European Union had a legal personality. Since even though there is no mention of expressed; there were defenders

<sup>28</sup> See: A. Maricut, 'With and without supranationalisation: the post-Lisbon roles of the European Council and the Council in justice and home affairs governance', *Journal of European Integration* 38(5), 2016, pp. 541-555.

<sup>29</sup> See: L. Lonardo, 'The political question doctrine as applied to common foreign and security policy', *European Foreign Affairs Review* 22(4), 2017, 571-587.

<sup>30</sup> See: R. Erdağ, 'Towards European Security Integration: Boundaries of European Security and Defence Policy', *Journal of European Integration* 38(2), 2016, pp. 211-217.

<sup>31</sup> See: M. Bevir, and R. Phillips, 'EU democracy and the Treaty of Lisbon', *Comparative European Politics*, 15(5), 2017, pp. 705-728.

and opponents of an implicit legal personality<sup>32</sup>. Lisbon brought express reference to legal personality in Article 47, which has undoubtedly made the EU an actor in the international arena<sup>33</sup> elucidates that being an actor meant that the Union came to have an authority over diplomatic representations and actions that came external action, replacing the Commission's action by "*High Representative for Foreign Affairs*"; which strengthened the image of EU as an independent figure abroad. By virtue of its legal personality, the Union became an actor of international relations. Therefore, the EU as an international organization began signing the treaties, as well as agreements<sup>34</sup>. Before this legal framework, the EU did not exist outside the European continent and Member States ended up participating in joint actions on behalf of the Union, which decentralisation and often less coherence.

Article 216 paragraphs 1 of Treaty on the Functioning of EU, clarifies the Union's ability to conclude international treaties when competent to do so, obliging all Union institutions and the Member States to as agreed. However, CFSP continues to operate unanimity<sup>35</sup>, and this includes the signing of treaties, even if EU has prerogatives for treaties, in general, independently of the States. In this context, Herbel<sup>36</sup> identified that the High Representative participation in the Union's supranational executive (Commission) at the same time as which is appointed by the intergovernmental executive (Council), participating in its meetings, in addition to integrating the Legislative Council (Foreign Affairs Council). This position was established by the Treaty of Lisbon, unifying in a single position the "old High Representative for the Common Foreign and Security Policy, European Commissioner for Foreign Affairs and the Chair of the General Affairs and Relations Council External Relations".

The European Council, with the entry into force of the Treaty of Lisbon, became formally an EU institution, although there had been previous meetings, generating statements which served as a reference to Commission decisions; In addition, the President of Council, to be chosen by Council itself for a mandate of two-and-a-half years, renewable once, instead of the rotating presidencies, as was the case previously. The President of Council is especially important to have a responsibility to manage differences and to unify the positions of Member States of Union, as far as possible, because of the Council intergovernmental form. In turn, Article 27, paragraph 3 of Lisbon, stipulates that the High Representative shall be assisted by European External Action Service to ensure the coherence of European externalities<sup>37</sup>.

<sup>32</sup> There was no legal personality in recognition by international environment, international law as well as member states of the EU.

<sup>33</sup> G.Majone, 'European integration and its modes: Function vs. territory', BlogActiv EU, the Academic Research Network on Agencification of EU Executive Governance (TARN), 2016.

<sup>34</sup> Treaty of Accession of Croatia (2012); Agreement between the European Union and NATO on cooperation in promoting good governance in the defence and security sector (2018).

<sup>35</sup> Article 24 paragraph 1 of the TEU underline that: "The common foreign and security policy is subject to specific rules and procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise".

<sup>36</sup> See: A.Herbel, 'Parliamentary scrutiny of the EU's Common Foreign and Security Policy' *West European Politics* 40(1), 2017, pp. 161-182.

<sup>37</sup> See: J. Jokela, 'The European Union as an international actor: Europeanization and institutional changes in the light of the EU's Asia policies', in Warkotsch A. (ed.) *The Role of the European Union in Asia*, pp. 57-74, London: Routledge, 2016.

## **EU as Civilian Power**

As already stated in the Constitutional Treaty, the preamble to the Treaty of Lisbon immediately begins by referring to the universal values of inviolable and inalienable rights. That is, the Treaty begins first by referring to universal values as the inspiration for the European project. To give importance to the Values of the Union, Article 2 (Values of the Union) is inserted at the beginning of the Treaty, with values being the elements on which the Union is based. Subsequently, in Article 3 (Objectives of the Union), in paragraph 1), it states that the Union's objective is to promote the peace, values and well-being of its peoples<sup>38</sup>.

Within these EU values are undoubtedly human rights, since 'this EU commitment to human rights is and should continue to be a fundamental element of its identity to which it must be faithful'. Because in this "world so uncertain and uncertain in which we live, you need a strong and united European Union, around great values, that you know where you are going; that speaks unambiguously, to a single voice; that he does not hesitate to proclaim his values whenever it is necessary". Through the Treaty of Lisbon, another important step is taken in the defence and proclamation of the common values of the EU.

In the Treaty of Lisbon, Article 7a (1) is inserted, according to which the EU establishes privileged relations with its neighbours, to create an area of prosperity and good neighbourliness, based on the values of the Union and characterised by close and peaceful relations, based on cooperation<sup>39</sup>. That is to say, the Union makes it clear that it intends to establish good relations with its neighbors but, based on the values of the Union, thereby obliging other States to respect and adopt the values of the EU to establish relations with it. If the Constitutional Treaty provided for the institutionalization of the MFA, accumulating the functions of the current High Representative for the CFSP and the Commissioner for External Relations, and being one of the main innovations of the Constitutional Treaty, especially concerning the EU's external action.

However, in the Treaty of Lisbon this figure is withdrawn, with only the person responsible for EU external action being called High Representative of the Union for Foreign Affairs and Security Policy (Article 9-E), and in accordance with Article 9e (2), 'the High Representative shall conduct the Union's common foreign and security policy'<sup>40</sup>. It shall act in the same way as regards the common security and defense policy'; The High Representative shall preside over the Foreign Affairs Council (Article 9-E, paragraph 3); is one of the Vice-Presidents of the Commission and ensures the coherence of the Union's external action (Article 9e, paragraph 3).

The objectives of CFSP enable the European Union to play a greater role on the international scene: safeguarding common values, fundamental interests, independence and integrity

<sup>38</sup> See: C.Lequesne, 'The European External Action Service: Can a New Institution Improve the Coherence of the EU Foreign Policy?' in *The EU's Foreign Policy*, Routledge, 2016, pp97-104.

<sup>39</sup> See: C.Lequesne, 'The European External Action Service: Can a New Institution Improve the Coherence of the EU Foreign Policy?' in *The EU's Foreign Policy*, Routledge, 2016, pp.97-104.

<sup>40</sup> See: J.Howorth, 'The Lisbon Treaty, CSDP and the EU as a security actor' *The EU's Foreign Policy*, 2016, pp. 83-94.

of the Union, consolidating and supporting democracy and the rule of law, preserving peace, fostering economic and social development, encouraging the integration of all countries in the world economy, including through the elimination of measures to preserve the environment, the protection of natural resources on a global scale, the provision of assistance to populations, countries and regions confronted with natural or man-made disasters and the promotion of multilateral cooperation<sup>41</sup>.

EU as a civil power advocates human rights and democracy abroad and besides, multilateralism and cooperation can be the only possible response to weak cohesion, enabling to force interests through economic and military resources. Moreover, Whitman and Juncos (2009) identified that non-application of qualified majority voting in defence and security matters makes the EU hostage to the division of opinions. This is bound to occur perpetually, which in a way, to act as a civil power. In addition, Woolcock<sup>42</sup> added that expenses in defence of Member States reach 200 billion euros, behind only the USA, whose are the largest in the world. In this stance, EU together is the largest economy in the world contain at least two nuclear powers, suggesting the EU civilian power is more a bureaucratic and “choice” issue rather than obligation and necessity.

On the other hand, the distance between the EU as civil power and its necessity to act with force as hard power is an attempt to demonstrate an internal division. This enlightened the European image rather than truly applying only these principles in foreign policy. In the absence of overt supranationalism, their core values internationally may be an attempt to place to be a prescription for foreign policy. Thus, a mismatch between words and actions is to be expected. An international identity that does not take into account supranational states and entities need to be concerned about potential threats to the security and economic order, in a globalised world, is doomed to failure in the world. In the current world there can be an observation that in the process of globalisation, there is a process of regionalisation. Societies are searching own identities. In that communicated world, in the era of the fourth industrial revolution, there is a lack of vertical as well horizontal of serious global communication to face common current and future challenges.

### **Lisbon Treaty's and CFSP**

Ten years after its launch in Helsinki, the policy has seen an expansion of its missions, its area of intervention and its operational capabilities, both civilian and military. The EU has also taken a significant step with the establishment, since the beginning of 2011, of the European External Action Service (EEAS), which brings together most of the dimensions of the Union's external action. However, for many observers, the EU's foreign policy remains evanescent, too

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<sup>41</sup> See: R.Erdağ, 'Towards European Security Integration: Boundaries of European Security and Defence Policy', *Journal of European Integration* 38(2), 2016, pp. 211-217.

<sup>42</sup> S.Woolcock, *The potential impact of the Lisbon Treaty on European Union external trade policy*. Swedish Institute for European Policy Studies (SIEPS), 2007.

little “*strategic*”. Yet, in a decade, the EU has not only developed common, autonomous, civilian and military capabilities, and unified its external action resources. The “*powerless*” Europe of the Bosnian years seems to have fizzled; some 20 military and civilian operations - of varying size and ambition - have been launched since 2003 as part of a policy that now covers much of the spectrum of conflict and crisis: prevention, management and reconstruction<sup>43</sup>. Above all, the EU has developed a security vision, endorsed by all of its Member States, the European Security Strategy. To the question: “an ESDP, what for? The Europeans seem to have refined their response.

However, this question remains: soldiers and gendarmes who go on patrol along the cease-fire lines of the Caucasus or reassure a “peace without reconciliation” in the Balkans, police officers working in Kosovo or training forces Security Council: Do they serve the consensus of a “safer Europe in a better world “ or do they also have the traits of a strategic tool, helping to influence the Union’s partners, supporting its common diplomatic choices? , cementing the loopholes of too economic power and not enough political? In other words, are ESDP and CFSP missions and ersatz for UN peace operations, in which many EU states do not commit more or less? Or is the CFSP rather an instrument serving the objectives of European foreign policy? The question, which may seem Manichean, nevertheless refers to the very nature of the Union’s international security action, which sometimes aims to be impartial in the manner of United Nations peacekeepers. Sometimes at the service of international interests of the Union, and of its Member States in the best of all worlds, these two options coincide, in the best of all worlds, only<sup>44</sup>. All the means available to the Union must be put in place to counter these so-called “hard” and “soft” threats, considered as interdependent, and to promote international peace. The European strategic response is not only based on the CFSP or the CSDP but on all the instruments, structural and operational policies that form its external action. In this respect, the Lisbon Treaty is a giant leap in unifying under one heading all the dimensions of the EU’s external action and creating the European External Action Service to ensure coherence<sup>45</sup>.

### **Lisbon Treaty in International Challenges**

The Treaty of Lisbon has brought changes to the functioning of the EU and the lack of a unifying formal mechanism for foreign policy. This continues to the unanimity of Member States’ positions, clutters and integration of the continent which, apart from the arrival of new members, does not seem too likely to advance in the short term. The legal and political mechanisms for a common foreign policy do exist, however. Europe lacks a common strategic

<sup>43</sup> S.Woolcock, *European Union economic diplomacy: the role of the EU in external economic relations*, Routledge, 2016.

<sup>44</sup> See: A.Servent, “The role of the European Parliament in international negotiations after Lisbon”, *Journal of European Public Policy* 21(4), 2014, pp. 568-586.

<sup>45</sup> C.Bickerton, *European Union foreign policy: from effectiveness to functionality*. Springer, 2015.



objective that is agreements on the way the bloc together should follow. There are contrary positions within the EU on the position on Russia, Turkey and the Middle East example<sup>46</sup>.

The first months of European External Action Service (EEAS, established on December 1, 2010) coincided with events in the Middle East and North Africa, so-called the Arab Spring. The new, most important operational diplomatic instrument of CFSP, set up based on the Treaty of Lisbon, had major challenges from the very beginning in almost all Euro-Mediterranean Partnership of European Neighbourhood Policy' countries. Due to the structures and procedures that were not developed at that time, EEAS could not demonstrate the effectiveness of the Treaty of Lisbon and CFSP.

### **Libya and Ukraine case**

In 2011, in Libya, once again via NATO, France, the United Kingdom and the United States engaged in military action - questionable, but decisive - with other European states, to "avoid a bloodbath in Benghazi". Admittedly endorsed by a UN resolution, the NATO war in Libya hardly withstood the examination of its objectives: responsibility to protect civilians in the speech, politico-military support to the insurgents and the overthrow of the regime of Muammar Gaddafi in facts<sup>47</sup>. Two objectives not necessarily contradictory, but constituting an agenda that the EU could not assume.

The provisions of the Treaty of Lisbon expressed the ambition of the EU to change its role in world politics. The new solutions applied, including the creation of a new scope of competences for the position of the High Representative and the diplomatic service subordinate to him and the President of the European Council, were to contribute to increasing the effectiveness of activities of individual institutions on the international arena. The changes were to be primarily a response to the lack of coherence in the implementation of the external dimension of EU policies. After 2011, the new situation in the near southern neighbourhood of the EU has revised the real possibilities of reaction and the current strategic approach. The practice of applying new solutions during events called the 'Arab Spring' highlighted the real possibilities of EU action and weaknesses, the defeat of which was not a derivative change of treaties, but the attitude of the leaders of the member states to conduct joint actions with divergent political visions based on a particular interest in the crisis region.<sup>48</sup>

The following years brought about the strengthening of the European External Action Service (EEAS) structures and the dynamics, opening of new delegations in many places around the world. Besides, procedures and coordination mechanisms have been established between

<sup>46</sup> See: M. Smith, 'Does the Flag Still Follow Trade? Agency, Politicization and External Opportunity Structures in the Post-Lisbon System of EU Diplomacy', *The Hague Journal of Diplomacy* 13(1), 2018, pp. 41-56.

<sup>47</sup> See: M. Pieper, 'Taking Stock of the "Common" in the European Union's Common Foreign and Security Policy' in de Zwaan, J., Lak, M., Makinwa, A., Willems, P. (eds.) *Governance and Security Issues of the European Union*, pp. 273-289, The Hague, TMC Asser Press, 2016.

<sup>48</sup> B. Przybylska-Maszner, *Uwarunkowania reorientacji polityki Unii Europejskiej wobec Afryki Północnej po roku 2011*, Poznań 2014, p. 51.

the EU diplomatic missions and the EEAS headquarters. After three years of operation of the EEAS and four of the Treaty of Lisbon, at the beginning of 2014, CFSP and ENP faced another challenge. Ukraine, the key country of the Eastern Partnership, the second foundation of the ENP, was attacked by Russia. Also at that time, the CFSP, strengthened by EEAS under the Treaty of Lisbon, did not demonstrate the effectiveness of the impact on the immediate international environment and effectively support the strategic partner and potential EU member, which was Ukraine. The EU's response to Russia's actions proved inadequate to the ambition of being an important security actor and limited itself to diplomatic pressure and visa, financial and economic sanctions. However, in the face of increasing conventional war threats, the question arises as to how and how the EU security policy should change and how<sup>49</sup>. The military deficiencies of the European Union and its Member States have been a serious problem long before 2014 and the explosion of an interstate armed conflict at the EU's borders.

### **Paris 2015 and EU New Security Strategy**

On the night of 13 November 2015, in Paris were a series of terror attacks. On 17 November 2015 for the first time, France invoked Article 42.7 of the Treaty of European Union, which is the mutual defence clause. It states that: "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, following article 51 of the United Nations charter". Article 42.7 was used for the first time. The invocation of Article 42.7 was unanimously approved in a meeting of EU defence ministers.

28 June 2016 at the Brussels Summit High Representative Federica Mogherini presents EU leaders with a global EU strategy in the field of foreign and security policy. The new Strategy has been titled "Common vision, joint action: a stronger Europe". The document is an attempt to define a strategic vision of the role of the EU in the world and common beliefs and directions for further actions<sup>50</sup>.

### **Brexit and CFSP**

On June 24, 2016, the day after the British referendum and a few days before the EU summit, during which the EU Security Strategy was announced, German Foreign Ministers, Frank-Walter Steinmeier and France, Jean-Marc Ayrault adopted the joint document "Strong Europe in uncertain world, in which they presented their vision of changes following the UK's withdrawal from the EU: strengthening the CSDP, deepening the economic and monetary union and establishing a common asylum and migration policy. Ministers also underlined the necessity of permanent EU engagement in Africa, without however referring to the threat from

<sup>49</sup> K. Sobczyk, Konflikt na Ukrainie – porażka czy szansa dla Wspólnej Polityki Bezpieczeństwa i Obrony UE?, *Bezpieczeństwo Narodowe* 2015/I, p. 37.

<sup>50</sup> [http://www.eeas.europa.eu/archives/docs/top\\_stories/pdf/eugs\\_review\\_web.pdf](http://www.eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf)

Russia. They suggested taking action to deepen cooperation in the area of security and defence<sup>51</sup>. Postulated, among others joint regular reviews of the security environment, which would be discussed at the General Affairs Council and the European Council, development of common strategic priorities for foreign and security policy, the establishment of a civil-military chain of command or launching permanent structured cooperation in some areas (eg permanent naval forces). The document also includes provisions on the establishment of a “European semester” in the field of military capabilities, as well as the creation of a defence research program to support the innovative defence industry. The Franco-German document indicated the need to fight terrorism through dialogue and cooperation with African and Middle Eastern countries<sup>52</sup>.

Next, the defence ministers of Jean-Yves Le Drian and Ursula von der Leyen on 13 September 2016 emphasized the need to strengthen Europe’s security and defence by: creating a permanent CSDP command (military and civilian), medical logistics command for missions and operations, strengthening EUOKORPUS, development European transport capacity (and in the future - a European logistics hub), as well as the strengthening of situational awareness, especially at sea, widening the scope of joint mission financing through the Athena mechanism and supporting the building of military capabilities of African countries<sup>53</sup>. Ministers also intend to accelerate the implementation of the European Council conclusions of 2013 and 2015, including the initiatives: building capacity in the area of security and development (CBSD), research program in the 2021-2027 financial perspective focused on CSDP capabilities, financed from EU funds, deepening cooperation NATO-EU, increasing the capability of EU Battle Groups and strengthening the force generation process. The authorities in Berlin and Paris pay a lot of attention to the strong European technological and industrial defence sector (EDTIB)<sup>54</sup>. In their opinion, Member States should strive to allocate 20% national defence budgets for investment in armaments and military equipment, and create financial incentives (eg support from the European Investment Bank) for cooperation between the Member States in the defence sector. They also encourage them to coordinate and increase transparency in the development of defence budgets, to create further joint European arms programs (the so-called European Semester in the field of defence).

In the context of the Treaty of Lisbon and CFSP, it should be stressed that the ambitious goals of the European Global Strategy are likely to be difficult to achieve without Britain in the EU. Great Britain is the second-largest economy in EU countries. Besides, it has the largest defence budget in the Union. Yes, therefore, Brexit weakens the EU’s ability to achieve the objectives adopted in the Strategy. Also, it will affect its image and its impact on the world.

<sup>51</sup> <https://www.diplomatie.gouv.fr/en/french-foreign-policy/european-union/events/article/a-strong-europe-in-a-world-of-uncertainties-28-06-16>

<sup>52</sup> See: A. Marrone, Brexit and European Defence: Between Uncertainty And Cooperation, *The Progressive Post* 5 – Summer, 2017, p. 31. <file:///F:/Pendrive%20Toshiba/Mathab/brexit-european-defencepdf.pdf> (19.12.2017)

<sup>53</sup> <https://euobserver.com/foreign/135022> (07.07.2018)

<sup>54</sup> See: S. Besch, EU defence, Brexit and Trump The Good, the Bad and the Ugly, *Centre for European Reform*, December 2016.

Besides, the United Kingdom was the foundation of CFSP. Together with Brexit, CFSP will be based mainly in France, Germany and Italy.

## **Conclusion**

Through the development of the CFSP and the unification of its external action, the member states of the European Union have defined a specific role for it in matters of international security. A primary role focused on conflict prevention and crisis management, as well as the reconstruction and democratic transition of war-ravaged states. This role is now partly beyond the control of the Member States, which have made the Union a full player and generated expectations on the international scene. It is indeed all the Union's institutions and policies - from the Council to the Commission, from the Political Dialogue to Development Cooperation - which is now called upon by the European Security Strategy within the framework of the European external action<sup>55</sup>.

However, this role, defined by the member states, is still marked by its dilemmas, which stem from the hybrid nature of the EU - an organization with an intergovernmental and a supranational architecture - as well as the common values that underpin its relations at international. Along with strategic objectives, the Union's structural policies have a definite impact in the long term - what some have called normative power or "structural foreign policy". However, the same objectives, applied to the CFSP and CSDP, generated operations that were often reactive, limited and uneven, suffering in some respects from a "strategic" deficit.

Notwithstanding the question of European defence, the Lisbon Treaty has nevertheless broadened the nature of CSDP missions, which could theoretically take the form of coercive "international security" operations - in times when the term "war" is less and less used by States. However, ten years of CSDP show that when member states consider that war is necessary, they have alternative options - outside the EU framework. As in Afghanistan, Iraq or Libya, the EU can also use its civilian missions, its financial resources, and its structural policies. In this respect, the EU is ahead of NATO because it can use its many civilian instruments to intervene in crisis or post-conflict situations - bypassing the reluctance of the member states, or parties to the conflict, in front of the military involvement of a third party<sup>56</sup>. However, it is generally confined to prevention, crisis management, and reconstruction, with emphasis on supporting the capabilities of states.

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<sup>55</sup> H.Blanke, *The European Union after Lisbon: constitutional basis, economic order and external action*, Springer, 2012.

<sup>56</sup> L. Rossi, 'A new revision of the EU Treaties after Lisbon?' in Rossi L.S., Casolari F. (eds.) *The EU after Lisbon*, Springer, 2014, p. 17.

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