

EU FOREIGN POLICY: STILL IN THE MAKING

Since the entry into force of the Lisbon Treaty 18 months ago, the EU High Representative for Foreign Affairs and Security Policy has not managed to establish viable partnerships with her national counterparts. Still, attempts have been undertaken to adapt the European Neighbourhood Policy and strategic partnerships to the new set-up. While the revised neighbourhood policy lacks ambition in the realm of CFSP, the strategic partnership concept is thin on substance. Close coordination and complementary action by the member states are required for both policies to succeed.



High Representative Catherine Ashton briefs the press on the Foreign Affairs Council, Brussels, 23 May 2011

18 months after the Lisbon Treaty set the stage for a new EU foreign policy, and six months after the European External Action Service (EEAS) became operational, it is too early to assess the new foreign policy actors. The key question at this moment is whether a viable partnership including a clear competence allocation between Brussels and the national capitals has been established; and whether the High Representative and the EEAS have been equipped with policies corresponding to their competences.

Coherent foreign policy requires close coordination between the EU institutions and the member states, and tailored policies that enjoy the full backing of the

national capitals. These two features are, hence, obvious starting points to put the new system in place. Implementing revised legal provisions means altering institutional cooperation and transposing the new objectives into adapted policies. The extent to which the new institutions have managed to coin this process, thus, provides a good indicator for their overall ability to forge vigorous EU external action.

At present, the EU faces two major foreign policy challenges: First, the revolutions and revolts in the Maghreb and the Levant; second, growing competition with established and emerging powers in global governance. Comprehensive

policies obtaining the full backing of the member states will need to pass muster immediately. Designing policies in direct reaction to unfolding events, however, risks setting unsustainable priorities; and must therefore allow for swift adaptation. The assessment of the new foreign policy actors' ability to revise policies and establish a functioning division of labour should, thus, also cover designs for further institutional and policy refinement.

New structures

EU foreign policy has been polyphone since its inception. The Lisbon Treaty was meant to change this and improve coherence and coordination. The institutional remedies it suggested were twofold: to concentrate the responsibilities for foreign policy and external relations at the EU level in one office and one administrative service – the High Representative for Foreign Affairs and Security Policy/Vice-President of the European Commission (HR/VP), and the European External Action Service respectively; and to task them with chairing the foreign policy-related decision-making process in the Foreign Affairs Council.

In spite of merging offices, the Treaty did, however, not provide a unified legal basis for EU external action. The legal basis for the Common Foreign and Security Policy (CFSP) remains distinct from that of supranational policies with an external dimension. Neither has the intergovern-

mental decision-making process in the framework of the CFSP substantially been changed. It still mostly requires unanimity, which means that member states continue to pull the strings of EU foreign policy. The High Representative and the EEAS, thus, coordinate policies and other administrative units that respectively emanate from, and report to, different political institutions.

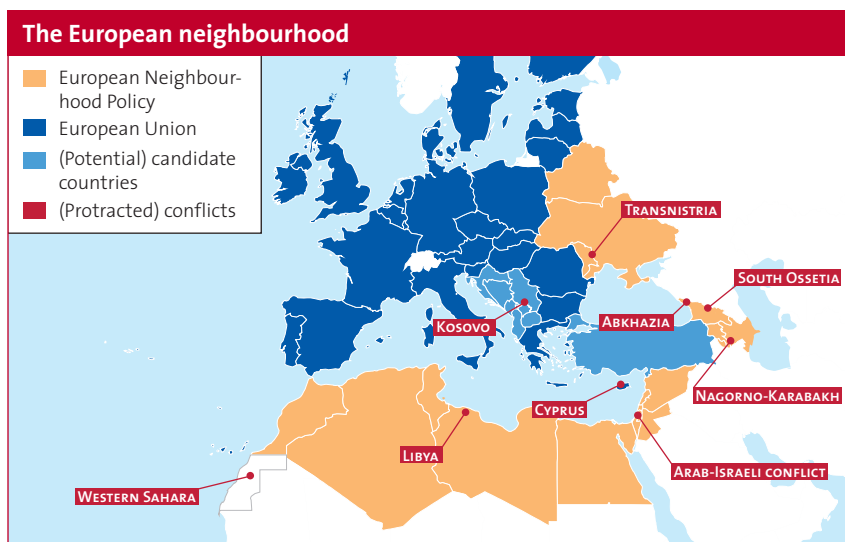
With the reform of EU external action, expectations were that the national capitals would put their weight behind the High Representative and the EEAS, accepting the primacy of common decision-making procedures. These hopes, in parts, emerged from the provisions of enhanced or permanent structured cooperation in security policy between the more ambitious member states. The expectations have, however, remained unanswered.

No viable partnership yet

The refusal to accept the High Representative’s focal role in the new set-up first became clear when the European Council appointed a civil servant without proven foreign policy experience. By doing so, it denied the new office any additional political authority. Not a good start, indeed. Also, the Brussels structures, under High Representative Catherine Ashton, and the national capitals have not managed to establish a viable partnership on a clear division of labour in the last 18 months.

In June 2010, the German Chancellor even went as far as to propose jointly with the Russian President the establishment of an EU-Russia political and security committee at the ministerial level (ER PSC). The High Representative and other member states were not properly consulted. The appropriate platform for such a proposal would have been the EU-Russia summit earlier the same week in whose framework Catherine Ashton also met with the Russian foreign minister. The German and Russian leaders continued to discuss the ER PSC with the French President in October 2010 – again without inviting the High Representative. Due to the understandable scepticism of some member states, the project has come to no avail so far.

Germany made the ER PSC offer conditional on Russian cooperation over the resolution of the Transnistria conflict. It thereby laid claim to oversee the conflict settlement process in Moldova. In its eastern neighbourhood, the EU foreign



policy apparatus has always had difficulties in asserting itself as peace-broker. One reason is that formats mediating between the conflict parties were established before the EU took on a foreign policy role. Another reason is that big member states like Germany and France want to keep relations with Russia under their control. Things have hardly changed in recent months. The EU is still not represented in all mediation settings. And the EU Special Representative for the crisis in Georgia will remain a French fiefdom for several more months before his mandate is merged with that of the former EUSR for the South Caucasus and a new representative is appointed.

Establishing a viable partnership has also been hindered by the member states’ differing approach towards foreign policy-making. While the Lisbon Treaty made the High Representative and the Foreign Affairs Council the hub of EU external action, national heads of state and government have become more active internationally in recent years. Even though there is potential for it, competition between the Foreign Affairs Council and the European Council is not likely to occur because of clear hierarchies in the national decision-making process. However, for the High Representative, it does matter whether the Foreign Affairs Council develops policies in the framework set by strategic guidelines of the European Council or whether the latter gets involved in policy formulation too.

Superimposing the European Council to the Foreign Affairs Council on non-

strategic issues reduces the High Representative to foreign minister status. This does, however, not correspond to the multiple competences given to the High Representative and consequently creates frictions. That said, there are policy fields that are not provided with strategic guidelines and, thus, require decisions taken by the European Council. This is the case for military action. Here, the national prerogatives regarding the deployment of troops translate to the EU level. As doyenne of the defence ministers, the High Representative must, however, be duly informed and consulted, even if the member states intend to use military force outside the EU framework.

Nevertheless, there is one domain for which a nascent division of labour between the High Representative and national foreign ministers has emerged. Before the December 2010 election in Belarus, foreign ministers from Germany and Poland prepared the ground for future EU action by visiting Minsk and offering financial and technical support in exchange for international election standards. Representing the Belarus caucus in the Foreign Affairs Council, to which the Czech and Swedish representatives also belong, their offer was credible without committing the entire EU. After the crackdown of the protests, these ministers pushed for EU sanctions while the High Representative forged a common stance with the US secretary of state. This collaboration between the High Representative and a group of foreign ministers is, however, related to the nature of the offer. It includes money

“Member states fear to lose control and visibility”

and economic and technical cooperation, hence, supranational instruments that form part of the association process. Linked to democratic elections, the criteria for their employment are predefined. Whether they are met can easily be verified. If the EU is asked to reward and encourage progress in peace talks, member states are, however, less unified in their assessment.

Obstacles to a viable partnership are of structural nature – even if personality, performance, and political authority matter. The member states fear to lose control and visibility when they recognise the High Representative's focal position and the primacy of the common decision-making process that the High Representative and the EEAS oversee. Accepting the new set-up would, in consequence, require them to limit themselves to the Brussels decision-making process and to retire spheres of influence in favour of the EU. The precondition for a viable partnership between Brussels and the capitals, thus, is to find a role for the latter's representatives that is allowing them to retain some visibility in EU foreign policy.

First moves towards comprehensive policies

The last year has, indeed, seen work on revising existing and formulating new policies. The revamped European Neighbourhood Policy (ENP) has jointly been presented as “A new response to a changing Neighbourhood” by the European Commission and the High Representative recently. The review process had started before the upheavals in North Africa made the overhaul of the EU's policy necessary. Already in September 2010, an extraordinary European Council including the foreign ministers discussed the new concept of strategic partnerships with established and emerging powers at the suggestion of its president. The summit took note of a list of potential strategic partners – such as China, India, Brazil, and South Africa – and initiated a process that should eventually lead to a tailored policy instrument. To start with, issues will have to be defined that both partners deem strategic and are willing to further explore in close cooperation.

Forging strategic partnerships will require the full backing of the member states. These partnerships mostly concern policy areas of shared competence,

such as climate, financial, or economic policy. A high degree of coordination between Brussels and the capitals is essential. Unsurprisingly, the European Council called for better mechanisms by adopting conclusions on internal arrangements to improve EU external policy that need yet to be established. For the targeted powers, however, an EU strategic partnership will only be attractive if it serves as the main cooperation forum and is not undermined

by the special relationships individual member states intend to maintain. Given the need for close coordination, the strategic partnerships provide an opportunity to establish a functioning division of labour between Brussels and the capitals. In this context, the High Representative might consider designating a foreign minister as rapporteur for each partnership, who will assist her in coordinating activities.

The role of the member states is different in the ENP. Ultimately concerned with associating the neighbours with the single market, this policy framework is based on more integrated policy instruments. The new offer of “money, market access, and mobility” in exchange for stricter conditionality regarding standards of democracy and the rule of law, nonetheless, requires the consent of the member states. The extent to which they will allow market access for agricultural goods, services, and people remains to be seen. It will also depend on their commitment whether the rule of law missions offered by the new ENP communication will be deployed. The main weakness of the policy review is that it lacks ambition in the realm of the CFSP/CSDP. It reaffirms the EU's support for conflict resolution and its readiness to take a seat in the mediation formats. But it is unlikely that the High Representative will go beyond this. Stepping up the EU's engagement requires the diplomatic, civilian, and military assets of the member states.

Thus, the joint communication of the Commission and the High Representative does not yet constitute a comprehensive new policy for the neighbourhood. In order to transform the ENP from a single market-focused policy to an all-inclusive policy employing all instruments at the EU's disposal, it needs to be complemented with a CFSP/CSDP action catalogue. Such a document adopted by the Foreign

Affairs Council when endorsing the joint communication could contain the member states' commitment to staff the potential rule of law missions in the framework of the CSDP and their agreement on how to adapt the formats mediating the protracted conflicts. The European Council, meanwhile, should issue a declaration defining the criteria to be met in order to qualify for further market integration and more money – say as Cairo criteria. In addition, the member states might consider establishing a catalogue listing their autonomous action in support of the ENP objectives. Only a neighbourhood policy based on the joint communication, a CFSP/CSDP action catalogue, a member states action catalogue, and a criteria declaration would indeed provide for an all-inclusive EU policy.

Forceful EU external action requires close coordination between Brussels and the member states, irrespective whether CFSP or supranational instruments are employed. The High Representative and the EEAS are at the centre of this coordination effort. It is, therefore, essential that the (big) member states accept the primacy of the common decision-making process and the guiding principles enshrined in the decisions and legal acts this process prescribes. In order to convince the national capitals of the value and authority of those obligations, Catherine Ashton and the EEAS might even consider codifying existing guidelines into clear documents. This would facilitate decisions on policy adaptation and could remind member states of their obligations.

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