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*Institutions and Externalities: Two EU Strategic Dilemmas*

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The European Union is at a turning point in the process of the implementation of the Lisbon Treaty. Assuming a calming of EU internal economic affairs (the euro and the fiscal crises), it may gradually enter the path towards real EU responsibility on a global stage, of course within the limited competence given by the treaty. For member states, it may indicate a need to adapt to a new way of exercising political leadership within the EU, as well as a necessity to introduce changes in the operation of their administrations and procedures used for the sake of their foreign policies.

**Two institutions**

The Lisbon treaty provides for a fairly significant change of the institutional balance within the European Union. Its biggest beneficiaries have become two institutions: the European Parliament and the European Council, both in different ways. Parliament has significantly strengthened its institutional and political importance through the recognition of the co-decision procedure as the basic EU legislative procedure that was extended to cover the vast majority of EU activity, bar foreign and security policy. The importance of a balancing of the Council and the Parliament, signalled as a potential by the Amsterdam Treaty 10 years earlier, became a reality in 2009. This has far-reaching political consequences: Parliament now can position itself as an institution equal to the EU Council. It is no longer possible to maintain, as was the case in the past, that the main EU legislative body is just the Council, while the Parliament only helps the Council in that respect. Equating the importance of both institutions carries an additional far-reaching consequence: For the sake of legislative decision-making in the EU, today there is an institutional duo consisting of two equal players, Parliament and the Council. Both chambers have similar powers, although they represent different sources of legitimacy from the whole of the EU: from the citizens (via Parliament) and that derived from the member states (the Council).

This observation would have only a theoretical significance, if not for its practical consequences on the conduct of EU policies where the Parliament has acquired a full co-decision right. In the past, there were policies in which the EP played a decisive role and provided strong leadership, as with environmental policy. Also, with regard to foreign and security policy, despite the lack of formal prerogatives and after 2004, Parliament strongly marked its preferences. The Lisbon Treaty marks Parliament's full entry onto new fields, however. One of the most interesting policies to observe in that respect in the coming years will be—again—the Common Agricultural Policy. Still, in the recent past the Council was dominating the other institutions in this area, while Parliament had only a consultative role. Extending the ordinary legislative procedure to also cover the area of agricultural policy means that if today we would like to understand the dynamics and directions of future developments of this policy, it will no longer be enough to observe the positions of what are traditionally the most important countries, such as France and, more recently, Poland. Currently, we also have to follow closely the evolution of the views of the members of European Parliament. Probably a bit of time is needed before the EP will fully mark its political presence. Yet, there is no doubt that sooner or later there will appear a group of active and entrepreneurial MEPs who would use the opportunity to make their marks.

The other institution that has most benefited from the Lisbon Treaty is the European Council. This was done mainly through its strong institutionalization via the appointment of its permanent chairman, the former Prime Minister of Belgium, Mr. Herman Van Rompuy. This appointment raised initial

controversies. The leaders at the European Council were thought to oppose the intentions of the Lisbon Treaty with this appointment. The practice of the first half of the mandate of Mr. Van Rompuy, however, has shown that he has become a surprisingly active and effective politician in this position. He has proved to be able to persuade all the European Council to accept his ideas, and thus has been able to turn his own intentions into concrete projects, as with remedies to the fiscal crises.

Mr. Van Rompuy has taken some real political initiative from the hands of the European Commission, and partly from the hands of member states. Assuming that the European Council is the most important political body of the European Union, he has gradually strengthened its leadership trait. He helps to progressively evolve it from an institution of essential appeal, dealing with problems the others—ministers and officials at lower levels of the system—could not cope with. Today, the European Council has gradually strengthened its political leadership over other institutions and is now able to demand and require what other institutions and the EU bureaucracy should do and how to prepare. This is not a total novelty of the EU institutional system, however, since to some extent the European Council already acted this way in the past, but its effectiveness differed and was conditional on the political personalities involved in the process. Over the past several months, however, there has been a quantitative change. The European Council has become a single place of real political momentum on the basis of the initiative presented by Mr. Van Rompuy, and only partially by the European Commission or the member states.

From this perspective, it is extremely interesting that the initial debates on the way out of the fiscal crisis, which first hit Greece, took place in the European Council on the basis of documents and ideas presented by its permanent chairman, and not as usual by the European Commission. Mr. Van Rompuy, of course, was also able to listen and use the individual inputs from various member states, too. This trend became even more interesting when he began to preside—without a clear treaty basis for the purpose but with a clear political need to do so—the meetings of the heads of state and government of the eurozone. One might have expected that a candidate to perform this necessary task in the crisis years of 2010 and 2011, would have been Mr. Jean-Claude Juncker, the prime minister of Luxembourg and the permanent chairman of the Eurogroup. It also was Mr. Van Rompuy's team that laid down the foundations of the treaty changes, necessary for the introduction of a permanent mechanism to respond to the crisis in the eurozone. And, perhaps the most interesting was that the Franco-German initiative for competitiveness pact, reported in February and discussed in March 2011 at subsequent meetings of the European Council, was met with criticism in that it did not sufficiently take into account the interests of the whole of the EU and was not prepared and developed by a EU institution. It could have been the European Commission, but also the team of Mr. Van Rompuy.

Regardless of how this dilemma is resolved, it is important to observe the following: the EU member states face a strategic decision. Either they are going to opt for a full implementation of the Lisbon Treaty, gradually unleashing the full potential of all common institutions, including not only the European Commission and the Parliament but also the office of the permanent president of the European Council as well as the European External Action Service, or they will weaken those institutions, despite the intentions of the Treaty. This dilemma is not new in the integration process. The empty chair crisis or the Maastricht treaty implementation were signs of similar doubts held by the member states that have burdened the EU's fundamental nature. Today, the problem does have a strategic political dimension, too. It concerns the role of the most important political personalities of the EU: the presidents and prime ministers of the member states, and what their roles will be in the process of initiating EU actions and decision-making.

## **Externalities**

The Lisbon Treaty dramatically changes the way the European Union should be able to affect its external environment. At the same time, in the longer term, it will help to change the way the EU is seen by third countries, its neighbours, and other partners. This may happen for three related reasons. First, the treaty introduces new actors for the EU to use in its external activities: the high representative for foreign and security policy (this function is now performed by Ms. Catherine Ashton) and the permanent president of the European Council (Mr. Van Rompuy), who at the appropriate level—that of presidents and prime ministers—work to represent the EU. Secondly, the total number of actors involved in the EU's external policies has actually grown as a result of the Lisbon Treaty. Apart from the functions previously mentioned, there are other figures and actors to play important

roles in this area: traditionally in limited albeit important areas, the president of the European Commission (Mr. José Barroso), the member states, of course, and also the President of the European Parliament (Mr. Jerzy Buzek). Third, a new institution responsible for this area has been created: the European External Action Service (EEAS). Meanwhile, the European Commission loses neither its powers nor its potential to impact the external aspects of relevant policies that also may shape the EU's external activities, such as trade, agriculture, energy and climate policies in particular. At this point, it becomes important by force of the treaty that Ms. Ashton also exercises the office of the vice-president of the European Commission responsible for the coordination of EC external activities. This responsibility has clearly not, however, been applicable to other institutions, and most importantly, to Parliament and the Council. Although they may act on the basis of proposals formed by the European Commission and the high representative, naturally their activities cannot be coordinated by any other institution.

Therefore, in the area of EU external actions a number of actors have yet to be dealt with, including various EU institutions and the not fully formed EEAS. The EU, thus, is facing an important challenge to the internal coordination of the external policy. In this respect, the spirit and content of the Lisbon Treaty may provide a bit of an insight because it was intended to simplify the EU's impact on the outside world. In order to achieve a certain simplification, the treaty excluded the EU Council's rotating presidency (exercised by member states) from the area of foreign and security policy. Responsibility in this matter was transferred mainly to the high representative and the permanent president of the European Council. In other words, the Lisbon Treaty continued the evolution begun with the Amsterdam Treaty, which established the position of the EU High Representative for Common Foreign and Security Policy. For 10 years, Mr. Javier Solana served the post and tried, in the spirit of the Amsterdam treaty, to be the one face and voice of the EU's external policy. Mr. Solana was surprisingly effective in his function, grounding his activities mainly in a gradually expanding Secretariat General of the Council. It was a relatively good start to the new approach to building the EU's foreign and security policy following the bad experiences with the CFSP during the disintegration of the former Yugoslavia when (after the entry into force of the Maastricht Treaty) the EU had not managed to present a unified position. One of his important achievements was the adoption of the European Security Strategy (2003), which first tried to formulate goals and get them accepted by the whole EU, as well as to define common threats.

However, neither the success of Mr. Solana nor the Lisbon Treaty eliminate the basic problem in seeking the further institutionalization of the EU's external action: if we accept that the EU already has a bit of the single face and voice (before: Solana, now Ashton in cooperation with Van Rompuy), what message is to be formulated by the EU and communicated to its external partners with regard to the most important challenges and international crises of today? Obviously, the gradual institutionalization of foreign and security policy does not eliminate the responsibilities of the member states in this area, unlike happened in the past with, for example, trade policy. Hence, the EU again faces a fundamental dilemma between its components (member states) and its institutions that are engaged in shaping and making policy in this area. The treaty to an extent described the states' intentions. Today, they need to translate those intentions into practical actions that will be unequivocally and subsequently continued over the coming years.

Meanwhile, one may multiply examples of great expectations for European activities and actions. There are numerous moments when the world is waiting for a position or activity of Europe much more than activity from its member states, even if ultimately the largest member states are the most active and more or less implicitly try to speak for Europe. We already have mentioned the disintegration of former Yugoslavia. It also is worth recalling the Georgia-Russia war (2008) and the activity of the French EU presidency. Quite recently the countries of North Africa are waiting for Europe. Successive energy crises (disruptions of natural gas supplies) and prolonged climate change negotiations clearly point to the need for a consistent EU position for Europe, equally and uniformly presented and unanimously defended. This obviously is an ideal postulate. But, it very clearly reveals the need for Europe to act in crisis situations and whenever it is dealing with the essential challenges of a global scope. Once this is what determines the EU position, the separate French or German positions will be much too narrow, while the Asians and Americans will expect an EU position as a whole, representing the 500 million people living in the entire union.

However, it would not be reasonable to oppose the European Union to its member states. Such an error would be particularly glaring in the area of foreign and security policy. To the contrary, as was

the case in other historically significant policies (which also were considered to be extremely difficult to build in the past), such as trade and agriculture, the European Union is in the end composed of its member states. In other words, the EU includes its member states and the common institutions and procedures necessary for the elaboration of common positions and their effective presentation on the international arena.

The ongoing implementation of the Lisbon treaty in the foreign and security area will provide a renewed test of the potential for integration among the member states. They may fail the test if the short-sighted perception of the national interests of individual states prevails over their ability to seek nonzero-sum solutions, strengthening all of them. The particular challenge in this respect remains with the large countries and those that are internationally most active and are accustomed to independent actions on a global or regional scale.

In its practical manifestation, the EU will run the test on a daily basis in the member states' basic attitude toward the institutions they have just created and filled to act in this area. Here is the room to support the positions and activities and the European Commission. Most notable will be their support for building the weight and prestige of the new offices: the high representative and the permanent president of the European Council, as well as their support for the newest institution that has just taken its first steps: the European External Action Service.

Over the next few years, the test will also be practiced daily in various capitals around the world, especially in the most important major cities such as Beijing, Moscow, Washington D.C., New Delhi, Riyadh, Brasilia and Pretoria. Member state embassies in these cities are very much active and the diplomatic services of the largest EU countries are well-established. There the EU will gradually build its own embassies. Diplomats and politicians from and in these capitals will face a dilemma every day about whom to go to with an important piece of information or a difficult question relating to the whole European Union? Should they turn to the representatives of Great Britain, France, Germany or Spain, or should they go to the embassy of the EU? From an internal EU perspective this dilemma may lead to rivalry, but it also may foster cooperation. Any competing attitude in this area would be a huge strategic mistake for Europe, which in that case would appear to be devoid of the ability to arrive at a cohesive point of view, and this defect would become more and more clearly visible to various players from the countries around the world. It could even allow them to play individual EU member states against each other more than currently is the case. It would allow them to reduce what is currently shared to a minimum.

For the EU member states, especially the large ones, this will mean facing and coping with a second strategic dilemma, reaching many years ahead: whom to strengthen and what to develop? Are they to invest more in their own diplomatic networks or in people delegated to work with the EEAS? Can they invest simultaneously on both fronts, which may prove to be an untenable strategy from the standpoint of limited human resources? Given the strength of the institutionalization of EU policies and taking into account the perspective of the next 10 years, the Ministries of Foreign Affairs of the member states may face a more specific dilemma, which channels for their respective foreign policies are most efficient to pursue (national and European) foreign policy. It may happen that improperly invested resources would hamper both, and that neither would the state policy be implemented nor the European strategy built. Such a situation would be dramatically inconsistent with the intentions of the Lisbon Treaty. Worse, it would be contrary to the national interests of all EU member states combined or individual.