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Autor(i) / Author(s): Joanna Dyduch

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THE EUROPEAN UNION'S FOREIGN POLICY SYSTEM: THE PROBLEM OF COHERENCE AND EFFECTIVENESS OF THE POST-LISBON SOLUTIONS

Joanna Dyduch*

ABSTRACT

This paper is dedicated to the phenomenon of European foreign policy system – analysed in the processual context. Broadly defined processes of European integration affect the status of the main actors in the system. The point of reference in this study is provided by the European Union (EU) which is considered to be a source of systemic changes. However, the Member States are equally important, as well as their feedback in respect to the EU activity in the international environment of the European system. For the purpose of this study, the author has raised the question about the consequences the implementation of the Lisbon Treaty (LT) with regard to the position of sovereign states in the international system. Furthermore, it is important to look at the problem of coherence and effectiveness of the post-Lisbon solutions. The theoretical framework is provided by the synthesis of the Europeanisation concept with the realist paradigm of international relations. Such synthesis allows the author to analyse the nature and character of contemporary European states, still considered as the main actors of the European system. Therefore, it is worth to search for an answer as to why the EU member states are willing to limit the scope of their sovereignty and to what extent they are ready to share their competences in the field of foreign policy with EU supranational institutions.

Key words: European Union, Europeanisation, foreign policy system, sovereignty.

Introduction

The most recent revision of the EU primary law, in the form of the Lisbon Treaty (LT), has brought some substantial changes in the area of political integration of European states within the EU. The intended common theme and purpose of all major changes introduced by the Treaty was to strengthen the EU and streamline its functioning, so as to make it an effective global player, able to compete with other world powers (Dyduch, Michalewska-Pawlak, Murphy,

* Dr. Joanna Dyduch, is an Assistant Professor at the Department of European Studies, University of Wrocław, Ul. Koszarowa 3, 51-149 Wrocław, Poland, e-mail: joanna.dyduch@uni.wroc.pl.

2014). Among the key reforms envisioned by the Treaty in the field of foreign policy (for more, see: Dyduch, 2012 pp. 233-257), one can point out elimination of the EU's pillar structure, and placing legal and institutional heritage of European Communities within the framework of the Union. Secondly, consolidation and strengthening of the role and importance of EU supranational institutions: such as establishment of the position of the High Representative of the Union for Foreign and Security Policy (HR), who is given multiple institutional roles, and establishment of the European External Action Service (EEAS). Moreover, it brought about the strengthening of the position and competences of the European Parliament. Thirdly, one should underline change in the nature of intergovernmental institutions, such as establishment of a permanent post of the President of the European Council, the post of the HR (positioned as the President of the Foreign Affairs Council), and, finally, change in the organisation and character of the Presidency. Fourthly, one should consider change in the decision-making process (inter alia: by specifying cases in which the principle of unanimity no longer applies) and introduction of legal personality for the EU.

The reforms mentioned above caused a change in the nature and functioning of the system. They encompassed a transformation of the system's structure, the status of each actor within the system and also patterns of interactions between actors, determined by a shift in their respective competences. Therefore, one of the crucial points of this paper is the discussion about the status and nature of major actors of the European foreign policy system and their mutual interdependence.

In the next section of this paper, a theoretical framework for further analysis will be established. It will be placed in the context of a paradigmatic dispute on the processes taking place in the international system. It will include definitions of relevant terms and also explain the concept of the 'European foreign policy system'.

1 European foreign policy system between 'Europeanisation' and Realist rivalry. Conceptual contribution

The issue of subjectivity in international politics has been, and is likely to remain, one of the focal points in the European socio-political debate. By asking who is (or, perhaps, who may be) an effective subject in the international environment, we ask not only about a given actor's ability to articulate and

pursue his interests, but also about his ability to participate in shaping the international environment according to his preferences. Any answer to such questions is naturally placed in the context of a discussion over the direction of subjective and objective changes within the international system. The moment we assume that the international environment is dynamic in its character, we face almost a Sisyphean task – the need to systematically examine the adequacy of conceptual definitions and verify the functionality of operational definitions¹.

It is commonly thought that when it comes to processes, phenomena and events occurring in the so-called international environment, a vital - if not the most important - position is held by states. Scholars dealing with international relations identify the international environment with 'a system of states' (Łoś-Nowak, 2011, pp. 17). A state, being 'a territorial subject of international relations' coexists with other, 'non-territorial subjects' (such as international organisations or corporations), but still only states are attributed an abstract concept of 'sovereignty'. The term itself can be used to describe the nature and status of an actor in the system.

The literature dedicated to political sciences considers two meanings of sovereignty. The first one puts it as an organisational rule governing international relations by limiting states' actions on the international scene with the principle of non-intervention. The second one describes sovereignty as a characteristic attributed to a state, pointing to its ability to exercise power. This dual perception of sovereignty corresponds to its two dimensions: internal and external. Hence, the so-called internal policies (regional development, competition and consumer protection, agricultural, environmental) are related to exercising internal sovereignty, whereas foreign policy is a reflection of external sovereignty. However, in the era of European integration, the distinction between foreign and internal policies has become less clear. The emergence of a descriptive category of European policy signals the need to redefine established definitions related to sovereignty. In some EU member states, the terms 'foreign policy' and 'European policy' refer to two complementary, yet clearly separate spheres. European policy is horizontal – it encompasses a

¹ Conceptual definitions" are definitions that describe a certain concept by referring to other concepts; "operational definitions" combine the conceptual-theoretical level with empirical level – they consist of a set of procedures that describe what actions must a researcher undertake to determine the existence (or the extent of existence) of the examined phenomenon (Frankfort – Nachmias, Nachmias 2001: 45-46).

broad range of issues that are connected to a state's functioning in the EU. Consequently, one has to conclude that it is no longer possible to analyse internal policy without understanding European policy, and vice versa.

The above-described change may indicate that the traditional concept of sovereignty has lost some of its explanatory power. Moreover, it may indicate that the nature of international system is changing. Those changes occur in different realms of activity of the systems' actors/subjects/elements². It is worth noting that in modern times the category of sovereignty has never had an absolute character, or a universal definition. The literature published on the subject over the last 25 years is replete with attempts at defining it (see inter alia: Krassner, 1999, Keohane, 2002, Czaputowicz, 2004). When one looks for a definition adequate to contemporary analysis of actors and their role in the system, one may notice that sovereignty is a dynamic trait of a state and determines its position in the international system. When a state increases its ability to articulate and pursue its interests, it increases its own sovereignty (in this view, European integration may strengthen a state's subjectivity, but may also constitute a threat, depending on how able that state is to learn and adapt; moreover, while sovereignty of one state may increase, that of another state may simultaneously decline). Sovereignty should be perceived in terms of process, which means that it has to be constantly guarded and maintained. At the same time, the term 'sovereignty' cannot be explained with a fixed set of characteristics, nor is it bound to some constant principle. Limitations in exercising sovereign power in one area of a state's activity do not necessarily translate into the loss of sovereignty altogether. If an actor is to be sovereign, it has to have the ultimate ability to exercise its power - meaning, that even if it delegates some part of its competence to any other actor (an international organisation), it does so willingly in order to maximise its own benefits, yet it reserves its own right to reverse such delegation of competence.

Summing up the above considerations, it is worth to underline links and connections between the substance of the term 'sovereignty' and systemic approaches to research on international relations. Sovereignty, as a characteristic and attribute of an entity ready to act on its own behalf, creates a dichotomous order expressed in the division between "us" and "them". This division is not permanent and unchangeable. Processes connected with European integration obviously may evoke certain changes in the area of

² Terms actor, subject, element of the system are treated in this paper as synonymous.

delimiting boundaries.

If one assumes at the outset that the international system is still a system of states, then it should consequently be assumed that states are also the dominant actors in the European system (which is a sub-system of the international system) (Grosse, 2012, p. 26). Even though at this stage the process of integration within the EU is very advanced, it is hard to overlook the resistance against its further deepening and delegating more competence to the supranational level. In the crucial issues of international politics, the intergovernmental approach³ dominates in the EU - it is practically the only one that is accepted in praxis. In the time of crisis that has been haunting the entire world since 2008, as resources and funds dwindle, Euro-enthusiasm withers; the future depends not on European institutions, but on decision-makers in the member states (particularly the strongest ones). This has provoked many scholars to bring back the realist terminology to the description and explanation of reality. Categories such as 'national interest', 'security', 'power' and 'capacity' have been given a new lease of life. Concepts of 'balance of power', 'spheres of influence', 'sovereignty', 'freedom' and the 'right to self-government' have returned to the European discourse, particularly after the Ukraine-Russia tensions in 2013 and 2014. As Tomasz Grzegorz Grosse put it: "while European integration has achieved high level and common institutions of the EU have grown relatively strong, one cannot ignore the Realist rivalry between EU member states" (Grosse, 2005, p. 72) This is why choosing Realism as the explanatory paradigm for further analysis seems justified. According to **T. G. Grosse**, Realism can be used to analyse not only foreign policy of the states, but also integration. It allows us to consider integration as a game occurring within the EU, aimed at balancing the potential of key actors (for example France, Germany, Great Britain). Cooperation conducted within the framework of the EU can be taken as an example of how 'regional domination is established', how some European countries come to dominate others. This is reflected in the strengthening position of the biggest EU member states and the

³ Intergovernmental approach is affiliated with the „system akin to a contract or international treaty. A contract or treaty is signed between the sovereign parties. Each parties / state retain jurisdiction within its own territory and remain free to organize its institutions and policy process according to its own preferences (...). In the intergovernmental system only sovereign states can be actors decision making powers; States have a right to veto any decision (...); powers are only delegated states may revoke or renegotiated them (...); intergovernmental system is established to serve them and to assist them in forwarding or protecting their preferences and values. (Sjursen 2011: 1081).

increase in pressure to adapt exerted on smaller, weaker countries. Finally, European integration can be perceived as an attempt at balancing power in the global system, it can be considered through the lens of Europe's rivalry with other regions, for example BRICS (Brazil, Russia, India, China and South Africa) (Grosse, 2005, pp.82-83).

Therefore, following the authors and proponents of Realism, the analysis of international politics should be systemic in its character. The system consists of structure and mutually intertwined elements (Waltz, 1979, p. 79). The main subjects of the system are states, although, as underlined by **Waltz**, "states are not and never have been the only international actors" (Waltz, 1979, p. 93). Each state is an "autonomous unit" (Waltz, 1990 p. 37) - a sovereign political being that differs from others, for instance in the scope and scale of power it wields. The nature of international system is characterised by anarchism. Power is a function of capabilities a state possesses, and these, in turn, stem from the size of its population and territory, natural resources, economy, military power, political stability and competence of political elites (Waltz, 1993, p. 50). Changes in the distribution of power result from changes in the distribution of capabilities across units, which, in turn, may cause a shift in the structure of the system (Waltz, 1979, p. 108). In the continuous, dynamic process of power distribution within the system, peaceful coexistence requires the balance of power. The structure of the international system does not determine states' behaviour; rather, as stated by **Waltz**, it encourages states to adopt certain behaviours and refrain from others. Pressure generated by the structure may reward or punish countries for specific behaviours and, hence, influence their motivations, strategies and actions. Each state fares for itself by cooperating (or not) with the others; particular interests form the driving force behind interactions between states (also their leaders and allies), cooperation is possible, but it is not unavoidable. The basic goal of states is to ensure their own security (Waltz, 1997, p. 915).

Even if we equate the "European system" with the EU, we should complement such systemic perception of the EU with the awareness of its internal complexity. We should also remember that the EU is increasingly interdependent with its international environment. EU member states and systemically organised EU institutions (including intergovernmental and supranational bodies) are elements of the European system. Like every other system, it has its borders, outside which lies its surrounding environment. The system has a two-ways communication with its environment - it influences it and

is influenced by it (Szymański, 2010, pp. 162-167).

The systemic approach to analysing foreign policy requires us to take account of how actors of the European system influence each other. The process of “influencing” can occur simultaneously or be dispersed in time. It also has several dimensions. The four ways of “influencing” presented below constitute a parallel to broadly described in the literature dimensions of ‘Europeanisation’.

Table 1. Dimensions of “influencing” exercised by subjects of the European system of foreign policy

bottom up (uploading)	top-down (downloading)	cross-loading	‘ad extra’ (beyond Europe)
Process directed from the member states to the EU and its institutions In case of foreign policy, the important element is the influence that member states want to have on EU institutions in shaping (co-shaping) their agenda. By Europeanising their own national interests, the member states influence (consciously or unconsciously) foreign policies of other countries, not only through bilateral contacts, but also through their activities on the EU forum.	Process directed from the EU and its institutions to the member states. Goals, strategies and directions of member states' foreign policies are influenced by the EU and its institutions. Vertical process.	Process of transferring solutions, preferences and pressures between member states. This process may occur with or without an involvement from supranational institutions. Vertical / horizontal process.	The process whereby the EU shapes / influences its immediate and farther neighbouring areas by exporting its models of management and spreading European values. This dimension of Europeanisation can apply to those countries outside the EU or even Europe that maintain relations with the Union, as well as to international organisations. Horizontal / vertical process.
Vertical process.			

Source: own compilation based on: Ladrech, 2010; Featherstone, Radaelli, 2003; Moumoutzis, 2011; Schimmelfennig, 2009; Ruszkowski, 2010; Riedel, 2010.

The above considerations can be completed with assumptions that **A. Gawrich, I. Melnykovska** and **R. Schweickertmade** on the phases and trends of research on Europeanisation (Gawrich, Melnykovska, Schweickert, 2010, p. 1210). They distinguished three such trends. The first one is the “Membership Europeanisation”, second is named an “Accession Europeanisation” and the third is “Neighbourhood Europeanisation”. Such a distinction is helpful in designing and conceptualising research not only on the phenomenon of Europeanisation itself, but also on the changes occurring within and outside the European system. Consequently, one can assume that the “Membership Europeanisation” is linked with the process of modelling and shaping the internal structure of the system. The “Accession Europeanisation”, in turn, can be seen as a phenomenon which influences the process of changing the boundaries of the system. Finally, the “Enlargement Europeanisation” is understood here as a complex process of changes in external boundaries (...). It is taking place as the European Union expands its boundaries through enlargement (Olsen, 2002, p. 923).

Continuous change is an immanent feature of the European foreign policy system. Changes to the structure of the system are written into the cause-and-effect process of interactions occurring between elements of the system, as well as the system's interactions with its surrounding environment. EU member states' cooperation in the field of foreign and security policy is an excellent example of an undertaking “in flux”, exhibiting many unique traits compared to other forms of European cooperation. This particular field is highly decentralised, dominated by intergovernmental approach. Although “supranationalism and intergovernmentalism now live together under this same roof” (Sjursen, 2011, p. 1084), the European foreign policy system lacks strong supranational institutions that would be legitimised to make autonomous, binding decisions. Today, political cooperation in this area is located within the framework of the Common Foreign and Security Policy (CFSP), which can be perceived as a (highly institutionalised and ordered) mechanism for coordinating national foreign policies of EU member states. In other words, CFSP can be perceived as a vital part in the structure of the European foreign policy system. However, if the CFSP is to be considered a focal point in this structure, the policy and its instruments have to be repeatedly legitimised by the member states. Moreover, it is necessary that while operationalising their national foreign policies, member states constantly (almost systemically) take account of the EU priorities and principles. In the model view, we also have to assume that the

international interests of member states are coherent with those of the EU, and vice versa. Therefore, CFSP is, in fact, a unique mechanism for organising cooperation, rather than conducting policy. Actions taken within the framework of CFSP are voluntary and aim at coordinating national policies. But as **Eva Gross** noticed: "if CFSP is sidelined by national priorities, it cannot be expected to be an effective policy instrument" (Gross, 2009, p. 3). The awareness of the structural weakness of European foreign policy system is present both in the academic and political circles. From the political decision makers' perspective, the response to the problem was to push the political integration forward.

Since the subject of this article is closely linked with the course and nature of changes resulting from European integration, as well as these changes' consequences for the position of European nation-states in the international system, disregarding a theoretical concept of Europeanisation would certainly be a mistake. Studies on Europeanisation focus on organisational-procedural aspects (Grosse, 2012, pp. 30-31), and can therefore complement the neorealist perspective on phenomena occurring in contemporary international relations. Results of research conducted in field of European studies can prove very useful in determining the course, dynamics, directions and effects of interactions between EU member states, between member states and EU institutions and, finally, between the member states and the rest of the world (Gross, 2009, pp. 14-16). Research programmed along these lines can distinguish regularities and cyclical nature of the examined phenomena. Further in the text a definition of Europeanisation will be presented, particularly as it relates to explaining processual changes in the European foreign policy system.

The processual nature of Europeanisation is clearly sketched by **C.M. Radaelli**, whose works on the subject are frequently quoted. In his opinion, Europeanisation is a process of "a) construction, b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (...) discourse, political structures and public policies" (Radaelli, 2004, pp. 3). Radaelli points to the impact of the EU on its member states (the *top down* process), while we have to remember, that in the foreign policy analysis, of equal (if not greater) importance is the influence of member states on the shape of more than just CFSP (the *bottom up* process). The above-mentioned processes occur continuously and simultaneously. They exert mutual influence and add to the dynamics of processes within the European

system. Such opinion is reflected in the most recent studies devoted to Europeanisation, based on the so-called integrated approach (Wach, 2013, p. 27).

At every stage of the decision-making and policy operationalisation process, Europeanisation of EU member states' foreign policies is closely linked to voluntary, conscious actions of governments (Moumoutzis, 2011, p. 625). As noted by **Alecu de Flers** and **Müller**, Europeanisation of foreign policy occurs along the lines of "its own" logic, which lacks hierarchical bases for cooperation (Alecu de Flers, Müller, 2012, p. 21). In other words, political cooperation within the EU is still conducted in the conditions of anarchy. In the field of foreign policy, states use so-called soft instruments of Europeanisation, such as the open method of coordination, benchmarking, good services or experts' cooperation (Wach, 2013, p. 27).

2 European foreign policy system in flux: realms for change

In the following section, we shall present an attempt at describing, explaining and assessing the European foreign policy system. The key category in our consideration is subjectivity of actors. The category of subjectivity helps to define and characterise elements/actors of the system. It also helps to estimate the importance and place each of them holds in the system. Moreover, the author have also attempted to examine determinants of the phenomenon and factors that shape the actors' subjectivity and, consequently, find out what impulse lies behind the changes 'in' and 'of' the system.

If we assume that the European foreign policy system – embodied by the EU – “departs from the ranks of international organization and becomes more than just a sum of its national parts” (Toje, 2011, p. 44), we need to ask what this means for the nature and character of international system and its basic elements (Europe as a political entity and European nation states). Today's EU is a non-state “multi-purpose, multidimensional, semi-supranational and semi-intergovernmental actor” (Toje, p. 56) able to act only if it enjoys legitimacy bestowed upon it by its member states. There is no doubt that EU's existence and activity influence the structure of the international system, as well as the structure of the member states' internal systems. The new, transforming European foreign policy system is based on the existence of supranational organisations or institutions which both in legal, political and axiological sense attempt to take over the role of the state, for example: when supranational

institution are entitled to contact the citizens directly, avoiding/ignoring the state and its institutions.

The integration processes and then connected with it process of Europeanisation have not been identical in all areas of cooperation (including economy, politics, culture), albeit there is no doubt that results of integration in one of them influenced, or even determined, cooperation in all others. All kinds of undertakings (e.g. law-making, taking or refraining from taking actions), on both national and supranational levels, have had specific consequences for the shape of the entire system. In the next section some of the changes that have recently occurred in three realms of integration: legal, institutional and political, will be presented.

2.1 Legal realm

The adoption of the Lisbon Treaty on the 1 December, 2009, resulted in several important modifications to the EU primary law. Most of all, it was decided that the EU would receive a “legal personality” (TEU, 2007, art. 47). When the Treaty came into force, the Union gained the ability to be represented in international relations through, among other means, its own diplomatic representatives, who were incorporated into EEAS. The EU can also conclude (on its own behalf) international agreements with third states and other organisations. These changes provide the Union (most of all, its supranational structures) with a certain degree of independence from the member states. Potentially, they strengthen its position and character as an international actor. However, when predicting possible scenarios in this area, one still needs to remember that “the EU is deriving all of its authority from the member states” (Tokar, 2001, p. 5). This is so because the EU's legal subjectivity is in accordance with the principle of delegated competence: it means that the Union acts in the international environment only within the scope of competences delegated upon it. Potential uncertainties in this respect are clarified by the ‘Declaration no. 24 on EU legal personality’, adopted as an annex to the LT. The Declaration stipulates that “the fact that the European Union has a legal personality will not in any way authorise the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties” (TEU & TFEU 2007, Declaration no. 24). In a way, the Declaration neutralises the above-mentioned provisions of the LT. It was adopted due to determined efforts of some member states, in order to confirm beyond any doubt that a state

possesses external sovereignty. The change mentioned above can be seen as an announcement of the upcoming systemic changes. It is introducing a kind of transitory solutions: the nation states are still the primary actors in international environment, but no more are they the only relevant actors.

Another legal-international issue important for the subjectivity of actors in the European foreign policy system is the question of law-making competence. Today, through its institutions, the EU creates law which is (almost) universally incorporated into national legal systems of the member states. The legislative procedure begins with the European Commission, which prepares proposals for legal solutions. In the "ordinary legislative procedure", the decision is taken jointly by the Council of Ministers and the European Parliament. However, EU's law-making competence is limited in a number of ways. Firstly, the ordinary procedure does not apply to foreign and defence policies (also to fiscal and social issues). One example of this particular limitation is the procedure of adopting political or financial sanctions against a third state - one of the tools envisioned in the CFSP (European Commission 2008). Such decision requires unanimity among the member states. Since regulatory power of the EU supranational institutions in the foreign policy area is still strongly limited by the nation states' authority, the European system of foreign policy is definitely not autonomous. This affects its coherence and effectiveness. However, one should consider signals stemming from empirical research on the nature of processes taking place within the intergovernmental bodies of the EU. For example, it is noticed that "national diplomats in Brussels do not feel their daily work is constrained by their governments" (Chelotti, 2013, p. 1053), instead they claim to enjoy much freedom in the negotiations (Sjursen, 2011, p. 1083). Since their work is constantly placed in the European context, the process of their socialisation cannot be ignored. This phenomenon was termed "Brusselisation of the elites" (see Juncos, Pomorska, 2011). Furthermore, because member states develop "different institutional arrangements for coordinating European policy", the boundaries between the national administration and Brussels have blurred (Chelotti, 2011, p. 1060). However, this does not mean we are currently observing the birth of a new European system at the expense of the old one based on nation states. **Helen Sjursen** states that "the two parallel but interwoven system of foreign policy are emerging – that of the nation states and that of the EU" (Sjursen, 2011, p. 1087).

Member states are obliged to adapt their legal systems to EU standards. Still, even this supposed domination of EU law is somewhat limited. For

example, in Poland, the accession to the Union spurred a substantial debate over the place of EU primary law in the hierarchy of national law. The issue was even debated by the Constitutional Tribunal on two occasions. In the sentence dated 11 May, 2005, the Tribunal stipulated that the Polish Constitution takes precedence over ratified international treaties (including the EU treaties). In case of a discrepancy between the Constitution and EU law, the Tribunal pointed to three possible solutions: 1) changing the Constitution, 2) changing the EU law, or 3) resigning from EU membership (Trybunał Konstytucyjny, 2005). The Tribunal confirmed this position in another sentence, dated 25 November, 2010 (Trybunał Konstytucyjny, 2010). Similar situations occur also in other member states, for example in Germany (Dyevre, 2010). The Union's legal system is secondary in its nature - dependent on legal system of the member states. The EU, as a legal entity, is a result of a consensus and legitimacy conferred upon it by its members.

Another example of a non-universal character of the EU legal system comes in the shape of derogation - a mechanism which allows a member states to be excluded (permanently or temporarily) from the obligation to abide by a specific part of EU law. Furthermore, sometimes a member state uses its power to selectively apply EU law, also in the field of the internal market. For example, in 2009, the OPAL and NEL gas pipelines (which are parts of the Nord Stream pipeline) were completely exempted from the regulations contained in EU's Third Energy Package. Another symptomatic case is a stipulation included in the Maastricht Treaty (and upheld in subsequent treaties), whereby "state aid granted to the certain areas of economy of the Federal Republic of Germany, affected by the division of Germany" is allowed and compatible with the functioning of the internal market (TFEU, 2007, art. 107, point 2c). The controversy of this decision lies in the fact that the Lands of former German Democratic Republic were exempted from otherwise universal ban on state aid, what effectively sanctioned systemic inequality.

Post-Lisbon changes have somewhat limited the anarchy of European foreign policy system. Still, this European system is certainly not analogous to hierarchical internal systems within states.

2.2 Institutional realm

The LT, which is the last phase of the EU institutional development (but probably not the least), reordered the institutional structure of the European

system by *inter alia* creation new institutions (President of the European Council, HR, and the EEAS which is an autonomous body tasked with assisting the HR in fulfilling his duties) (TEU 2007, art. 27). Apart from establishing new institutions, the reform transformed inter-institutional relations within the system. Firstly, it changed the purely intergovernmental nature of the European Council and the EU Council of Ministers by complementing them with supranational bodies. Secondly, the HR has been given fairly broad competences that he/she can exercise within the framework of several institutions. This is so because the HR holds the post of Vice-President of the European Commission and chairs the Foreign Affairs Council, furthermore, the HR acts as the head of the EEAS, which is an independent body separate from all other EU institutions, including the Commission and the Council (Council of the European Union, 2010). Such a construct means that the HR balances between several institutions (Dyduch, 2014). The intention behind this solution was to have the HR ensure coherence and stability in the EU foreign policy. In practice, though, operationalising this policy requires consent from all relevant actors of the system. Complicated structure protracts the decision-making process and often makes the EU incapable of coming up with a quick, effective answer to the dynamically changing international realities. However, in the light of empirical research conducted by **Ellinas**, and **Suleiman**, “top Commission officials want to see authority within the EU shift to community institutions and away from state government.” (Ellinas, Suleiman, 2011, p. 931) Such standpoint of European bureaucrats is obvious and understandable - it could not only ensure the deepening of European integration, but also sustain and expand their power (Ellinas, Suleiman, p. 940). At the same time, however, further increase in the importance and capabilities of the EU supranational institutions would have to be achieved through limiting the power of national governments. Hence, one can say that the intergovernmental and supranational approach compete with each other, and the result of this competition determines the shape and structure of the system.

CFSP's stipulations contained in the LT need to be considered in the light of 'Declarations no. 13 and 14' annexed to the consolidated version of the Treaty. Their essence lies in a caveat that “the provisions in the Treaty on European Union covering the Common Foreign and Security Policy (...) do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor their national representation in third countries and international organisations” (TEU & TFEU, Declaration no. 13).

Declaration no. 14 states that “the provisions covering the Common Foreign and Security Policy do not give new powers to the Commission to initiate decisions nor do they increase the role of the European Parliament” (TEU & TFEU, Declaration no. 14). Therefore, the two above-quoted documents can be viewed as an objection (or at least a lack of readiness) voiced by the member states against legitimising the Union's supremacy (the supremacy of its interests and institutions) over its constituents. Another factor that weakens the supranational character of the European system of foreign policy lies in personnel strategies of the member states when it comes to filling posts in European institutions. For example, the recruitment process to the EEAS proved to be largely a consequence of influences and pressures from member states, reflecting their geopolitical interests (Formusiewicz, Liszczyk, 2012).

LT makes a changes also in the composition of the Commission; “as from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number” (TUE 2007, art 17). The decision to decrease the number of European Commissioners meant that not all member states would have their representatives in the Commission. This could, potentially, strengthen the supranational nature of this body, but that does not necessarily have to be the case. Another scenario points to further marginalisation of smaller, less effective member states and to limiting their impact on EU foreign policy. Such a course of action might generate the process of gradual decrease in the political legitimacy of European foreign policy. Thus, here one can face a somewhat problematic choice between the effectiveness and coherence of the policy in its substance. Recent development proofs that member states are not ready for far-reaching supranationalisation of the Commission.

The Union's ability to exercise absolute power is best pictured by the course of decision-making processes. LT introduce more majority voting into the proceedings of the intergovernmental institutions. First European Council nominates its President by a qualified majority of votes. The same body participates in choosing the President of the Commission - its nominee has to be confirmed by the European Parliament. Introducing such mechanisms limits the power of a single member states in this intergovernmental institution. In practice, the changes affected most of all the smaller countries which enjoy fewer opportunities to form strong coalitions. Indirectly, the member states'

influence over the mode and scope of the work of the European Council has been weakened just by creating the supranational post of its President, who is tasked with representing the EU in external relations. Earlier, this had been the role of the rotating Presidency. Currently, the President can potentially affect the frequency of the Council's meetings, as well as their agendas.

The key decision-making competences (also in the field of CFSP) have been given to the other intergovernmental institution - the EU Council of Ministers. The Lisbon Treaty introduced some very important changes also to this body's decision-making process. It abolished the system of vote weighting (which was more beneficial to small- and medium-sized member states) and replaced it with the dual majority system. As a result, the qualified majority can be gathered by at least 55% of the total number of member states that represent at least 65% of the entire EU population. If the Council decides on proposals other than those from the Commission, the qualified majority must comprise at least 72% of states and at least 65% of the population. The authors of the reform left a possibility to block a decision - this requires at least four states, representing at least 35% of EU's population. This system came into force on the 1 November, 2014. Until 31 March, 2017, every state will have the right to propose for a specific decision to be made according to current rules. Although the above-mentioned regulations are a result of a painstakingly reached compromise, not all member states were satisfied with the outcome. This is why the consolidated version of the LT includes Declaration no. 7, also known as the **Ioannina compromise**. The solution contained in the Declaration allows any member state to voice its objection against a legal act, even if the group of states which opposes a given legal solution is not strong enough to be able to block it (TEU & TFEU 2007, Declaration no. 7).

When one analyses the consolidated version of the TEU and TFEU, it is easy to get the impression that all the changes made to the CFSP have indeed solidified the European foreign policy system and infused it with more order. This, however, is a mistaken view. After a closer look at the treaties and annexed declarations, one discovers that the competences of supranational institutions are substantially limited by the influence and subjectivity of the member states. It is also worth noting that even if the above-discussed changes do not refer directly to the cooperation within CFSP, but rather, for instance, to mechanisms of the internal market or inter-institutional relations, they still affect the place of the Union and its member states in the international system.

2.3 Political realm

Although international-political subjectivity of the EU is closely linked to its legal subjectivity, which in turn is derived from its legal personality, the two types of subjectivity are not identical. The political subjectivity is understood as an actor's ability to effectively pursue its interests by acting on its own behalf on the international scene.

According to the TEU, the Union acts on behalf of the citizens of the EU. The EU citizenship is an innovative category, related to European integration. However, the peculiar nature of EU citizenship is in fact related to state citizenship. The former does not abolish the latter, nor does it replace it. It is an additional right (TEU 2007, art. 9), based on the logic contained in the principles of subsidiarity and proportionality (TEU 2007, art. 5). European citizenship applies only to those individuals who are legally connected to a member state. Since member states are free to unilaterally determine their own rules for granting citizenship, they decide about who becomes an EU citizen (Konopacki, 2008, p. 13). It is not meant to weaken citizens' link with their states, or undermine the subjectivity of a state itself. The principles of subsidiarity and proportionality are designed to guarantee a state's role and position in the system. Therefore, the theses stating that other collective actors (e.g. the EU) also possess international-political subjectivity (Beach, 2012, p. 3) can easily be questioned. One might argue that the Union's subjectivity is conditional (secondary) and, thus substantially limited.

Another issue which is frequently evoked in the discussion on the evolving role of states in the international system (particularly in its regional, European dimension) is the problem of external state borders. The problem has at least two major aspects. The first one is material / territorial, and refers to physical borders, while the second is immaterial (economic), and refers to the liberalisation of the flow of capital, goods and people.

To illustrate the first dimension scholars often use the example of the Schengen system, based on the Schengen Agreement concluded in 1985. It is worth noting that although the Schengen Agreement is highly complementary to EU treaties and **the Schengen *acquis* is incorporated into the EU framework by the** protocol annexed to the Treaty of Amsterdam (European Union, 2009), not all member states participate in the system to an equal extent. At the same time, its signatories include European countries that are not members of the Union. What is more although the border controls have been liberalised, but the

situation is reversible. Controls can be re-introduced with the decision of national authorities (European Commission, 2006) - in fact, it has happened on some occasions. Having in mind that borders (also the material ones) are set by a state's ability to exercise power over a certain area, one can notice that the lack of border controls does not change the territorial scope of power in any way. A part of the debate over the impact of integration on states' sovereignty with regard to borders is simply irrelevant. The Schengen Agreement theoretically could be implemented even if the EU did not exist. Such a situation proves that the political borders of the EU system are flexible, and their expansion is obtainable not only through EU membership. Conversely, EU membership does not guarantee full participation in the Schengen system. Besides, one has to admit that the existence and functioning of the Schengen system influences the character of the Union as an international actor. It definitely affects the Union's relations with its neighbours. It also directly shapes the relations between individual member states and the third countries. Interestingly, as the EU conducts its external relations through the mechanisms of the European Neighbourhood Policy (ENP), it adopts a very flexible way of delimiting its borders. The history of the ENP, introduced in 2004, is an excellent example of how geopolitical interests of member states "diluted" an initiative that was supposed to provide conceptual and operational coherence to Union's external actions.

Meanwhile, cross-border cooperation inside the EU, which in the current stage of integration has become increasingly intensive, may limit the states' subjectivity. As **Josep M. Colomer** argues, "it breaks concentric structure of cities, regions, states and the EU by introducing transversal relations and institutions" (Colomer, 2007, p. 79). Local authorities and self-government institutions more often tend to communicate with EU supranational institutions directly, avoiding their national governments. This may contribute to the development of diversity of political structures and forms of self-government, and consequently lead to erosion of the central role of state governments, improving and strengthening structure and ties within the European system.

As for the second (immaterial) dimension of borders, one example of how the European foreign policy system has been transformed comes in the shape of the Euro-zone. Some scholars argue that progressing integration in this field leads to the emergence of a European federal super-state (Morgan, 2005). According to some experts, the economic and monetary union was necessary to counteract the economic marginalisation of European states. By consolidating

their economies, strongly integrated member states were to become more competitive compared to the emerging economic powers: China, Brazil, etc. The project of a common European currency, implemented at the turn of 20th and 21st Century, certainly changed the system internally, and continues to this day to be a source of systemic change (e.g. the banking union) (European Commission, 2013). Additionally, it affected the international system in a number of aspects, for example by making Euro a direct competition for U.S. dollar or by encouraging governments to gather foreign exchange reserves and arrange international financial obligations in Euro, rather than in other currencies. Still, even in this case it is evident that the systemic activities of the economic-monetary union are neither common, nor universal. This is so because not all EU member states are parties to the union - some, despite meeting the convergence criteria, have opted not to join the Euro-zone (Denmark, Sweden, and Great Britain). The accession of some other members (including Poland, Czech Republic and Hungary) has been postponed - theoretically, due to their inability to meet the criteria at this point in time. The actual reason, however, stems from the influence of political factors. Finally, there are several member states which at the moment participate in the Euro-zone, but their future and status in this group have been strongly contested, in both European and national debates (the most striking example is Greece). In the latter case, it has been frequently said that the decision to establish the Euro-zone has come as a result of a political project, not as a natural consequence of functional integration (Majone, 2012). Moreover, the zone's structural weakness (reflected in the lack of sufficient control and management mechanisms) has undermined its international credibility - or, strictly speaking, the credibility of states that formed it.

Having in mind the above reservations, one question worthy of an answer is whether it is possible to point out a moment, when limiting economic sovereignty due to integration changes from a mutually beneficial operation into an increasingly risky political endeavour - a project, whereby some gain more, and some less; some have a wider influence over the shape of the integrated system, while others are subjected to numerous rules, limitations and obligations, and their role comes down to complying with other participants' directions. A big part of the answer lies with the activity of states - much depends on how effective are their diplomatic services (including the political and bureaucratic apparatus responsible for the European policy). Of some importance is also the efficiency of internal systemic solutions, as well as the

stability, competence, motivation, determination and morale of national elites in pursuing *raison d'état* (Hnatyszyn-Dzikowska, Woś, 2007, p. 177). Finally, it depends on a state's ability to exert direct and indirect pressure on its partners through European institutions. In other words, the key to the answer is in determining whether the process of Europeanisation proceeds systematically - whether the influence of European institutions on a member state (*top-down*) is balanced with that state's impact on the formulation of supranational solutions (*bottom-up*). It is also important to determine what influence member states have on each other (*cross-loading*). The EU's subjectivity, which stems from the subjectivity of its members, can be threatened if the process of Europeanisation exhibits pathology - this issue will be discussed further in this paper.

Conclusion

In the light of the above-mentioned facts, it seems that the concept of the EU as an entity able to conduct its own foreign policy should be approached rather sceptically. Even if we assume that the structure of the European system (in the form of CFSP) creates an "added value", rather than merely a sum of foreign policies of the member states, this is so mostly because these states differ from each other, and therefore have different impacts on the EU foreign policy. The differences between the member states refer to their preferences, goals, concepts and the use of various available measures and resources. These, in turn, depend on capabilities a given state holds in a dynamic international environment. Some countries of the EU-28 are more vigorous than others in pursuing their foreign policy goals. Some are richer, and some poorer. Some possess more resources, others less. Finally, member states differ in how much importance they attach to the politico-philosophical logic of national sovereignty, and how much to its direct alternative - the idea of European supranationalism. Despite the legal and institutional changes introduced by the Lisbon Treaty in the field of CFSP the foreign policy system, is still far from being coherent and effective (compare: Gross, 2009, p. 7).

One circumstance which may spur further development of EU foreign policy may come in the form of hypothetical situation, whereby the weaker member states will become so dependent on the Union (or its strongest members) that in order to secure their most basic interests (broadly understood security) they will be forced to allow the stronger actors to take the initiative with regard to international politics or, alternatively, they will no longer be able to conduct their

own, "individual" foreign policies. This, however, may devalue the current model of integration and force us to redefine the concept of Europeanisation.

The discourse on the European foreign policy system and the impact of integration on EU member states often takes on a normative character, particularly in times of crisis. Both journalists and politicians tend to use the word "Europeanized" to express that something is changed in accordance with European values. Therefore, Europeanisation has been perceived as a positive process. This is also true for academic literature. Many authors who analyse Europeanisation describe it as a transformation that helps the member states "adapt" to the conditions of their membership (Grosse, 2005, p. 22), or as a process linked to democratisation (Schimmelfennig, 2009, p. 15).

The literature on Europeanisation of foreign policy largely skips a methodological reflection over the possibility of this process having any negative effects. Hence, the reality it describes is somewhat incomplete. **Tomasz Grzegorz Grosse** points this out by stating that alongside positive results of the European integration (like "increased ability to achieve national policy goals by using European instruments"), Europeanisation may cause "weakening of national administrative and political structures, particularly a state's ability to conduct a long-term policy aimed at pursuing its national interests" (Grosse, 2005, p. 22). This can happen if a state "focuses merely on a correct implementation of European norms perceived as an 'output' of political processes, and fails to participate sufficiently in shaping the norms that constitute the 'input'" (Grosse, 2005). Hence, if Europeanisation of a state's foreign policy is dominated by *top-down* processes, a state may gradually become an object, rather than a subject of international relations. Such a situation constitutes a form of distortion of the Europeanisation model. That state's influence over the course and direction of Europeanisation decreases, while its national institutions and decision-making mechanisms become more susceptible to penetration from the outside. Paradoxically, such situation is not improving and strengthening the supranational European foreign policy system. A situation where Europeanisation is increasingly asymmetrical and one of its dimensions dominates over the others may lead to disillusionment and frustration. Consequently, it can result in delegitimisation of the entire integration process and the system as such. Greece, Portugal and Slovenia provide examples of just such a case. This, in turn, can spur the process of disintegration or deconstruction of the EU. Even if we assume that a complete dissolution of the EU is a very unlikely scenario, the possibility of a Member State

leaving the Union (as may be the case with the United Kingdom) or being expelled for purposeful, repeated cases of breaking EU regulations (Greece) has been considered as more probable. **Alecu de Flers** and Müller note that “EU MS may fall back on their own resources and individual strategies during political crisis or after changes in government” (Alecu de Flers, Müller, 2012, p. 24). **Jarosław Jańczak** describes the resulting process as “counter-Europeanisation”. He explains that it can take two basic forms: Euroscepticism and customisation (Jańczak, 2010, pp. 98-99). Euroscepticism is defined as a set of attitudes and opinions that results in questioning, or even rejecting, the progressive nature of European integration. Customisation, in turn, means conscious behaviour on the part of a state which tries to “adapt the Union to its own needs”. As a result, “Europeanisation of a state is replaced / accompanied by the customisation of the European system” (Jańczak, 2010, p. 99). These phenomena can exhibit various degrees of intensity. Europeanisation can proceed slower than expected, it may be halted altogether, or even recede to a pre-EU organisational logic. It can also be replaced by a new, alternative model. Counter-Europeanisation may bring the end to the process of strengthening the “European voice” at the expense of national sovereignty. Still, the end result of such a process would by no means be a simple return to the “start line” (meaning a state of affairs from before the integration).

It was expected that “the Lisbon Treaty will offer a unique opportunity to generate not only better coordination and coherence, but even synergy between all the different aspects of the Union’s external actions” (Missiroli, 2010, p. 445). However, the examples discussed in this paper show that the process is, for now, unfinished. European foreign policy system is a system in flux. The lack of universal, stable rules and principles, both in terms of legal, institutional and political sense, influences its coherence and, in consequence, its effectiveness. The issue of the Union’s position and strength in international environment remains a big question mark. The focal point upon which an answer has to be reached is related to the problem of the status of nation states. Tensions between the concepts of supranationality and sovereignty, which are shaping the structure of international system, still persist. If we assume that sovereignty is one of the key concepts in politics, that it describes the nature and status of the subjects in the system, and that it is attributed to the entity that makes decisions and bears responsibility for them, we have to conclude that it should still be attributed to states. In the era of integration, the EU member states limit the scope of their sovereignty, but they do so willingly (in a process that can theoretically be reversed) in order to pursue their own interests. Sovereignty, as

an abstract concept, remains “the utmost value of the nations, the greatest expression of its freedom, it is not given as a gift but is the result of great sacrifices that every nation had to make so as to gain independence” (Amititeloaie, 2012, p. 363). If we observe the way public opinion in the member states reacts to crises (economic and political), and note which of the values and symbols that mobilise and integrate the Europeans are still valid, we should not expect that the process of supranationalising the Union at the expense of national sovereignty is to be quick and successful.

However, in times of European integration, the concept of formal sovereignty has lost some of its importance. The gap so created may be filled by introducing a new category – “effective sovereignty”- into the research on the position of states in the international system. Its focal point is not some absolute independence on external factors - instead, it is a state's ability to pursue its interests, to decide on and shape (co-shape) the rules of the system (Czaputowicz, 2004, p. 28). In other words, “the basic function of a sovereign government will be not so much to express the independent nature of the state and its legal order, but to protect national interests in the conditions of openness and interdependence” (Bielań, 2003, p. 44).

The scenario whereby national foreign policies of the 28 EU member states are replaced with a single, EU foreign policy seems unlikely, albeit not entirely impossible. According to **R. Ladrech**, “MS continue to control their foreign policy in such way that EU institutions remain marginal to their formal development and operations.” (Ladrech, 2010, p. 190) In the long-term, they will probably not give up the last bastion of sovereignty, which is ability to run its foreign policy without serious resistance. The only premise that makes a complete transfer of sovereignty from states to a supranational entity (that would be able to perform functions now reserved for supreme national authorities) somewhat more likely is the emergence of an external threat. Without a common sense of danger experienced by the citizens of the member states, a complete political integration remains only an exercise at futurology. Still, it is possible that the global environment will bring forth problems and challenges of fundamental importance, and that European countries will no longer wish (or be able) to tackle them alone, or even in small, two- or three-strong groups. In such case, we will be forced to comprehensively reshape key definitions by which we describe the international environment. Until that happens, state's sovereignty, national security and *raison d'état* shall remain valid concepts to be used in the political debate in all EU MS to describe model of European foreign policy

system.

Foreign policy is, therefore, likely to remain the function of states, while mechanisms of the CFSP will be used by the member states to achieve their own goals. One can, however, expect an increasing degree of socialisation as time passes. States will learn how to effectively act in the labyrinth of European institutions, and how to recognise connections and interests that shape the agenda of the EU foreign policy and the system as such. Success and effectiveness of the European foreign policy system, however, lies in the level of the legitimacy given it by the member states. Gradual institutionalisation of cooperation in the field of foreign policy has not degraded the role of state as such. It is also worth noting that according to the current legal-institutional order in the EU only sovereign states may become its members. Entities other than states are not able to fulfil the obligations stemming from EU membership. Therefore, sovereignty and integration are not contradictory terms as long as states remain the driving forces behind integration. European political integration, which resulted in the CFSP, has slightly redefined the role of state in the international system by forcing states to adapt to increasing interdependence.

In the light of the discussion presented here, one may assume that the “hybrid” construction of the post-Lisbon foreign policy system constitutes a big advantage for its effectiveness. The system is bound to struggle for coherent and fluent interaction, as it coexists between the national authorities and EU supranational institutions.

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* The verdict was announced on 17 May, 2005, in the *Journal of Laws of the Republic of Poland*, vol. 86, item no. 744. It was subsequently amended by the verdict of the Constitutional Tribunal on 22 July, 2005, which was published in the *Journal of Laws* dated 8 July, 2005, vol. 123, item no. 1035.

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