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A Struggle for Influence: The Role of the European Parliament in EU Foreign Policy

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Abstract

This article examines the relationship between the Common Foreign and Security Policy (CFSP) and the European Parliament (EP.) The author asks why would member states, in such a sensitive area as foreign policy, be willing to share their powers with Members of the European Parliament (MEPs) over whom they have little control. The essay considers two possible explanations – one pointing to the Parliament's successful bargaining strategy, the other underlining the importance of the EP's arguments – while referring to the need for a more democratic foreign policy.

When the Common Foreign and Security Policy (CFSP) was established at Maastricht as a separate pillar, one reason was to avoid meddling from supranational institutions, among them the European Parliament (EP) (Moravcsik 1998). Since then, the EP has consistently requested more influence over the CFSP, but member states have been equally consistent in refusing to increase its powers. Thus, the treaty provisions have not changed since 1993. Nevertheless, several authors argue that the EP has managed to enhance its position in the CFSP, by pursuing a proactive strategy. Seen against the commonly held perception that the CFSP is governed by intergovernmental principles, this is an unexpected development. Why would member states, in such a sensitive area as foreign policy, be willing to share their powers with Members of the European Parliament (MEPs) over whom they have little control?

The essay considers two possible explanations – one pointing to the Parliament’s successful bargaining strategy, the other underlining the importance of the EP’s arguments – while referring to the need for a more democratic foreign policy. While the first approach is important in accounting for why the EP and the Council have concluded specific agreements, it is argued that without relying on the second explanation, it is not possible to understand the development of the EP’s role in EU foreign policy. The essay also argues that the ways in which the European Parliament has managed to increase its influence testify to the collective characteristics of the Union’s foreign policy. Although the EU’s foreign policy is claimed to be special and in the hands of the member states, it cannot be kept isolated from the parliamentary principle that is fundamental for the EU as a political system. What is more, the acknowledgement of this principle demonstrates that EU foreign policy is built on an independent foundation beyond the aggregated interests of EU member states.

Challenging an executive prerogative

The exclusion of parliaments from foreign policy may no longer be justified by reference to the rights of the king, but it is still very much regarded as an executive prerogative – in need of extraordinary efficiency and consistency in decision-making (Bieber 1990: 152). Because foreign policy is a distinct policy area that requires secrecy and flexibility, it has often been exempted from the same democratic procedures as domestic policies (Hill 2003). The European Union (EU), because of its many levels of decision-making, presents a particular challenge to democratic processes. Some have argued that the EU’s foreign policy suffers from a “double democratic deficit” because neither national nor EU level parliamentarians are capable of exerting adequate control (Born and Hänggi 2004).

The EU’s Common Foreign and Security Policy (CFSP) is often depicted as intergovernmental, dominated by member states. Decision-making procedures differ from other policy areas as decisions are taken by unanimity rather than qualified

majority, and the adoption of legislative acts is excluded. The limited role of supranational institutions is considered to be a further sign of the Member States' dominant position (Giegerich and Wallace 2010: 442). In most policy areas where national decision-making powers are transferred to the EU, the European Parliament's participation in decision-making has grown simultaneously. But despite increased coordination and cooperation between Member States on foreign policy at EU level, the formal power of the EP within the foreign policy has hardly changed since the CFSP was established in Maastricht. Following on from Article 36 (TEU), the EP has the right to be consulted and informed on the main aspects and basic choices of the CFSP as well as ask questions and make recommendations to the Council and the High Representative. Thus, studies that focus on European Parliament's formal rights, describe the EP's role to be more or less negligible (see for example Eeckhout 2012, Gegout 2010, Hyde-Price 2002, Juncos and Pomorska 2008, White 2001).

However, there are indications of changes in the EP's involvement in EU foreign policy. The current High Representative, Federica Mogherini, claims that she considers her "relationship with the EP an essential and valuable component of [her] work". Although this might be written off as lip service to the European Parliament, studies also point out how the European Parliament exerts increasing influence on the CFSP. Despite the fact that the EP disposes of few formal powers, its activities related to democratisation and human rights, as well as its role as both interlocutor and agenda-setter, have led several authors to argue that the EP's influence in EU foreign policy should not be ignored (see for instance Barbé 2004, Bono 2006, Bretherton and Vogler 2006, Diedrichs 2004, Fischer et al. 2007, Herranz-Surrallés 2014, Maurer et al. 2005, Raube 2014, Thym 2006, Viola 2000, Wisniewski 2013).

Why then, has the European Parliament's influence over the EU's Common Foreign and Security Policy increased?

Why has the European Parliament become more involved?

A key instrument for expanding the EP's influence in the CFSP has been so-called Interinstitutional Agreements (IIAs) between the EP, the Council and/ or the Commission. These have been described as "crucial instruments for the extension of parliamentary competencies in [the CFSP]" (Maurer et al. 2005: 177). These agreements serve as a good point of departure for demonstrating how and why the EP's influence has increased. Two Interinstitutional Agreements concern CFSP-budgeting, one from 1997, and one from 2006. The agreements have added to the EP's right to information and consultation on CFSP-matters by specifying and extending EP's right to be informed about CFSP-activities with budgetary implications. Moreover, the procedures whereby the EP is informed and consulted on these matters have also been made more concrete. These reforms may be small and incremental, but they are nevertheless "building blocks

for enhanced parliamentary involvement in the CFSP” (Thym 2006: 116).

When the Maastricht treaty established the CFSP, conflict over the foreign policy budget immediately became a regular feature (Monar 1997). The Council quickly realised that relying on member state funding got in the way of running CFSP-actions efficiently and thus turned to the EU-budget. This constituted a source of bargaining power for the Parliament that made appropriations conditional on information on how the funds were going to be used (ibid.). The EP made spending conditional on the Council following its demands for change in policy, but also on being informed about the funds would be used. This tactic caused considerable problems for the Council. Operations were delayed because the funding source of the CFSP was cut off, and the EU risked not being able to finance operations it had committed itself to. Thus, having the power to change the CFSP budget gave the EP an opportunity to prevent and delay the decision-making process in CFSP.

During the negotiations on the Amsterdam Treaty several Member States threatened to make the CFSP budget a compulsory expenditure to avoid parliamentary interference. The compromise was an Interinstitutional Agreement where the EP lost its ability to place funds in reserve, but that also established procedures for how the Commission and the Council would inform the EP about the costs and implementation of CFSP activities. However, because the EP believed that the Council ignored its obligations to Parliament, it began to cut funding to the CFSP in order to put weight behind its demands (Rosén 2014). In 2002, tensions arose between the EP and the Council about the financing of the EU’s police operation to Bosnia-Herzegovina. This was a prestigious mission, and the first operation launched by the EU under the Common Security and Defence Policy (CSDP). When the Council wished to increase the CFSP-budget by 10 million Euros to fund the operation, the EP expected something in return. The result was a joint declaration that specified the provisions of the 1997 Interinstitutional Agreement (Saarilahti 2008). In a similar manner, the EP made the financing of the police operation to Macedonia (Proxima), and support for the EU’s civil operations in Iraq and Afghanistan, conditional on receiving more and better information (Rosén 2014). The continuous pressure from the EP resulted in declarations containing more detailed demands about the procedures on informing and consulting the Parliament. In 2006, all these changes were incorporated into a new Interinstitutional Agreement.

These examples corroborate one dominant explanation of how the EP is able to exert influence on EU policies, building on the translation of formal decision-making powers into bargaining leverage (Farrell and Héritier 2003, Hix 2002 and Moury 2007). In cases where the need of the EP’s negotiation opponent has a greater need to conclude negotiations in the shortest possible time, or have a strong desire that the negotiations should not collapse, the EP’s bargaining leverage increases. Similarly, in the case of the third Interinstitutional Agreement, from 2002, that gave the European Parliament access to sensitive Council documents in the area of security and defence, the EP’s

successful tactics partly account for the conclusion of the agreement. Gaining access to sensitive documents meant that, for the first time, the EP was able to scrutinize the Council's activities in the area of the CSDP (Rosén 2015).

The agreement took two years to negotiate, and became closely entangled with the talks on the Regulation on public access to EU documents that was decided in May 2001. Although the treatment of sensitive documents had not been part of the Commission's initial proposal, the issue arose when the Council unilaterally decided to exclude top secret, secret and confidential documents from the scope of the yet-to-be-decided Regulation. As a result, it became one of the most difficult problems to resolve in the negotiations on the Regulation (Elgström and Bjurulf 2004). The European Parliament had a strong desire to end the negotiations during the spring of 2001, i.e. under the Swedish Presidency, because they assumed the successive chairmanships were less concerned with openness. Consequently, the EP was forced to accept that sensitive documents were exempt from the general rules of transparency, which was a non-negotiable of the Council. However, the Parliament managed to introduce a pledge that the Council (and the Commission) would make a deal with the EP on access to sensitive documents.

The EP's negotiation strategy contributed to the final agreement in several ways. First, the link with the negotiations on the Regulation on public access to documents explains why an agreement was carved out during the Swedish presidency. Although talks on the Interinstitutional Agreement continued for another year, the end result was almost identical to the text that was negotiated during the spring of 2001. Secondly, during the final stages of the negotiations, the key to concluding the deal was that the EP retracted a court case it had launched against the Council's security regulations (Rosén 2015). At this point in time, the EU was in the process of finalizing an agreement on exchange of information with NATO, and neither the Council nor any of the member states wanted to give NATO the impression that the introduction of the Council's security regulations might meet with constitutional obstacles within the EU (Reichard 2006: 339). This example supports Farrell and Héritier's argument that the 'justiciability of the matter' can increase the EP's bargaining power (2007: 233-34). While the role of the Court of Justice of the European Union is restricted in the case of the CSDP, the leverage of appealing to the Court depends on how the Council reacts and/or the Court's ruling. Recently, the EP succeeded in having an international agreement between the EU and Mauritius on the transfer of pirates annulled because Parliament had not been adequately informed.

Still, the EP's bargaining success does not render a thorough account of how and why the influence of the Parliament has increased in the area of EU foreign policy. Issue-linkage and the court appeal explain why the negotiations between the EP and the Council became more concrete, and why they finally sealed the deal. But it does not account for why the principle of parliamentary access was established at an early stage in the negotiation process and formed the basis for the subsequent

negotiations that mainly dealt with the IIA's procedural details (Rosén 2015). Likewise, in the case of the Interinstitutional Agreements on CFSP-budgeting, their conclusion is to a large extent the result of threats to reduce available means. However, the ensuing practice of information and consultation goes far beyond the Interinstitutional Agreements. This is where the involvement of the EP in CFSP becomes really interesting: Why has the Council been willing to accept changes that not only exceed the Treaties, but that also go beyond what the EP and the Council have agreed in the Interinstitutional Agreements? This development is difficult to explain using a negotiation perspective, which entails an aggregation of interests (cf. Risse and Kleine 2010).

Barbé and Surrallés (2008: 80-81) have argued that the Interinstitutional Agreement of 2002 on access to sensitive documents represents an acknowledgement of the European Parliament's right to be seriously engaged in political dialogue in foreign and security policy at the EU level. Their claim is consistent with a literature that claims that the approach to the EP's position in EU foreign policy has undergone a fundamental change. Some highlight how the EP has gradually come to be seen as a "serious actor and interlocutor in CFSP" (Diedrichs 2004: 36), and that consulting the EP is increasingly being taken seriously (Gourlay 2004: 188). According to Smith (2004: 174), Member States have somewhat reluctantly accepted EPs influence in EU foreign policy. Subsequently, several authors have pointed out that EPs increased influence in foreign policy must be seen against the background of the need to provide the CFSP with democratic legitimacy (Barbé and Surrallés 2008, Smith 2004, and Wisniewski 2013).

To investigate the potential effect of concerns for legitimacy in EU foreign policy, a theory is needed that takes norms seriously, i.e. that considers that norm-based actions can have a rational basis as well (Sjursen 2006). In the case of the three Interinstitutional Agreements on the CFSP-budget, the development of norms and practices in the context of the budgetary process appears to have significantly altered the EP's involvement in the CFSP. The EP receives more substantial information, participates in more real discussion and more political debate about the past, present and future prospects of the CFSP. This suggests a fundamental change in the relationship between the EP and the Council, developing from a situation of "mutual distrust" to "mutual recognition" (Rosén 2014: 7).

Thus, the EP's influence has increased beyond that ensured through the provisions of the IIAs. This development has to do with substance rather than procedure, as well as the way the EP's role in the CFSP is perceived by the Council. First of all, the EP has succeeded in getting the Council to engage in political debate, as opposed to a mere technical, budgetary account. Secondly, during the last 15 years there is a growing consensus between the EP and the Council on the principles underlying the EP's negotiated rights, an aspect that is accompanied by an increasing tendency for the Council to actually respect the IIA. Key to explain this fundamental shift in the Council's

approach to the EP's is the latter's continuous argumentation that it has a legitimate role in scrutinizing the EU's foreign policy.

Similarly, in the case of the Interinstitutional Agreement on access to sensitive documents, the discussion on some form of privileged parliamentary access to documents preceded the negotiations. At the outset, the Council opposed the EP's demands (Dinan 2001), and from the beginning this was an issue that was intimately linked with the more general question of Parliament's involvement in an intergovernmental security policy (Rosén 2015). The first step, therefore, was an agreement between the EP and the Council that there would have to be some kind of mechanism ensuring parliamentary access, and that this was connected to the "need for democratic supervision and control" (ibid.: 312). What is important to note is that this consensus became the basis for the ensuing negotiations, that dealt with the details of the agreement (who would get access and under what conditions), but that did not challenge the fundamental premise that the European Parliament had a legitimate right to information.

In other words, the long-term development of the relationship between the Council and the European Parliament has been affected by the arguments put forward by the latter in support of its demands for more participation, is another key to understand the current role of the EP in EU foreign policy.

Why does it matter?

Through establishing Interinstitutional Agreements with the Council and the Commission, the EP has been able to assert its own position in the area of EU foreign policy. The agreements have established meeting places and procedures for consulting and informing the EP of activities both in the Common Foreign and Security Policy, including the Common Security and Defence Policy. Furthermore, they have been established at the insistence of the European Parliament, and despite quite substantial opposition from several member states. What is more, the development of the EP's involvement has even gone beyond the deals made in the Interinstitutional Agreements. As a result, the interaction between the European Parliament and representatives of the EU executive has become a lot more frequent, and also political, than the initial intention of these agreements. In order to understand this development, it is necessary to draw on different types of explanations, one that takes the Parliament's successful bargaining strategy as point of departure, and the other underlining the importance of the EP's arguments referring to the need for a more democratic foreign policy. While the first approach is important in accounting for why the EP and the Council have concluded specific agreements, without relying on the second explanation, it is not possible to understand the development of the EP's role in EU foreign policy.

This has important implications also for how we understand the European Union's foreign policy. Despite the fact that the Common Foreign and Security Policy is considered to be an intergovernmental affair, the Parliament's advances show that the CFSP can not be kept totally isolated from the parliamentary principle that is fundamental for the EU as a political system (cf. Eriksen 2009). This raises the question of whether and to what extent the CFSP can and should be understood as an intergovernmental policy area. Considering the role of the European Parliament, and the acknowledgement that considerations of democratic legitimacy are also relevant for the institutional design of the CFSP, alludes to the CFSP as a collective project. This has recently been underlined by the Court of Justice of the European Union in its ruling on the EU's agreement with Mauritius on transfer of pirates. Its justification for annulling the agreement was that the Parliament had not been sufficiently informed, and that this rule "is an expression of the democratic principles on which the European Union is founded". Without exaggerating the importance of EP's participation, its increased influence is a clear indication that the CFSP represents something more than a compromise between member states' national interests.

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