

REVIEW OF SOME TOPICAL ISSUES IN EU DIPLOMATIC SERVICE

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Abstract: *The present study explores the new dimensions and challenges for the diplomatic services of the EU Member States. The framework of these services has been changed since the foundation of the European External Action Service in 2010 and the strengthening of the EU foreign and security policy by the 2009 Lisbon Treaty. This development puts forward the necessity to outline the new dimensions of cooperation between the ministries of foreign affairs of EU Member States. In addition, the study reviews the secondary law of the EU with respect to the cooperation between diplomatic missions in terms of diplomatic protection of EU citizens in third states.*

Keywords: *diplomatic service, foreign affairs, European External Action Service, Common Foreign and Security Policy (CFSP).*

ПРЕГЛЕД НА НЯКОИ АКТУАЛНИ ВЪПРОСИ, СВЪРЗАНИ С ДИПЛОМАТИЧЕСКАТА СЛУЖБА В ЕС

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Резюме: *Настоящата статия цели да представи новите измерения и процеси в дипломатическата служба на държавите членки на ЕС. Създаването на Европейската служба за външни действия през 2010 г. и засилените политически процеси в областта на Общата външна политика и политика за сигурност след Договора от Лисабон изискват да се очертаят новите измерения на дипломатическата служба и процесите на взаимодействие между националните министерства за външна политика. Освен това в статията се прави преглед на вторичното право на ЕС относно синхронизиране на взаимодействието между дипломатическите представителства при осъществяването на дипломатическа и консулска закрила за гражданите на Европейския съюз, когато се намират на територията на трети страни.*

Ключови думи: *дипломатическа служба, външни работи, Европейска служба за външни действия, Обща външна политика и политика за сигурност (ОВППС).*

Foreign policy activity within the European Union and generally within the system of international relations in the last 10 years has evolved with exceptional dynamics. This directly affects the diplomatic service and its priorities. There is a necessity for a more modern legal framework for the diplomatic service, which is in line with the dynamic environment for developing the system of international relations. In this respect, the expanding dimensions and forms of the diplomatic service¹, which in turn change by enriching the content of collaboration on both bilateral and multilateral basis, can be noted. These processes are especially visible in the EU.

The diplomatic service in the EU is quite different from the traditionally functioning external relations bodies that are non-EU members. This is mainly due to the fact that there has been established an institutional network of foreign policy institutions – COREU² in the mid-1970s – subsequently developed and renewed to CORTESY. Enhancing the political integration has led to the creation of the CFSP with several specific institutions and instruments. Meanwhile, new institutions have been introduced, such as the regulation of primary law regarding EU citizenship demanding the organization of diplomatic activities in the implementation of diplomatic and consular protection from diplomatic and consular/relevant representations, namely in third countries where there is no representation of the Member State, whose individuals are citizens.³ The latter is a very powerful legal instrument in the foreign policy area because it lets the EU have a very high degree of interaction in third countries. It appears that all EU Member States are represented in only three countries – the United States, China and Russia.⁴

On 1 December 2009, the entry into force of the Treaty of Lisbon created positive preconditions for the institutionalization of the Common Foreign and Security Policy (CFSP).

¹ Marin, N., Belova G. *A CENTURY OF INDEPENDENCE OF THE BALTIC STATES - SOME SIMILARITIES AND DIFFERENCES WITH BULGARIA*, Baltic Yearbook of International Law (in print), Brill Publishing House.

² COREU is an EU communication network between the 28 EU countries, the Council, the EEAS and the Commission. By providing a regular flow of information, it facilitates the cooperation on foreign policy issues. In particular, COREU allows rapid decision-making in emergencies. Available at <http://eur-lex.europa.eu/summary/glossary/coreu.html?locale=bg>.

³ See Art. 20, letter "c" of the Treaty on the Functioning of the European Union, Luxembourg, 2010, p. 57.

⁴ Communication from the Commission to the European Parliament and the Council - Consular protection for EU citizens in third countries: state of play and prospects COM (2011) 149, Brussels, p. 3.

The establishment of the European External Action Service in 2010⁵ and the involvement of the High Representative for Foreign Affairs as Vice-President of the European Commission is a great step, which gives an affirmative signal to foster coordination and deepen the political integration in the EU. The first High Representative for the Common Foreign and Security Policy (CFSP) was Catherine Ashton, from whom there were great expectations for stepping up the CFSP and building new diplomatic service models. Due to the fact that she is from the United Kingdom, it was expected that she should become more active and empowered with the issues of European political integration.⁶ For the time being, after almost two terms – one by Catherine Ashton and one by Federica Mogherini – it is about time to ask urgent questions which concern the functioning of the diplomatic service. They include the diplomatic missions, permanent representations to international intergovernmental organizations, particularly within the context of their interaction in the CFSP perspective.

The contemporary development of international relations has also had an impact on the diplomatic service. The international relations system has suffered a number of crises and international politics has undergone serious trials and shocks within a decade. The striking beginning is the 2008 World Financial and Economic Crisis and later on the increased tensions in some regions in the Middle East and North Africa, such as the Arab Spring of 2011. The negative repercussions of these shocks triggered the migration and refugee crisis⁷, which had an influence on Europe and raised issues of certain sensitivity in relation to the national identity. The escalation of tension, distrust and a sense of insecurity led to the legitimation of extreme political currents, which also had a negative impact on the diplomatic service in the EU. The increased terrorist activity and committed acts of terrorism in France, Sweden, Germany and other countries, the continuing civil war in Syria has also complicated the relation between the leading states by shaping a geopolitical

⁵ Council Decision of 26 July 2010 establishing the organization and functioning of the European External Action Service (2010/427/EU), Official Journal of the European Union, L 201/30, 3.08.2010.

⁶ Марин, Н., Христова, А., Анализ на правната уредба на Общата външна политика и политика на сигурност на Европейския съюз според Договора от Лисабон, Изследване на Общата външна политика и политика на сигурност и съседство на Европейския съюз след Лисабонския договор, Университетско издателство „Неофит Рилски“, Благоевград, 2010, с. 41 (Marin, N., Hristova, A., Analysis of the Legal Framework of the Common Foreign and Security Policy of the European Union under the Treaty of Lisbon, Study of the Common Foreign and Security Policy and Neighborhood of the European Union after the Treaty of Lisbon, University Publishing House “Neofit Rilski”, Blagoevgrad, 2010, p. 41).

⁷ Marin, N., Disproportionate Migration Pressure as a Challenge for the National Security of the Republic of Bulgaria, Economic, Social and Administrative Approaches to the Knowledge-Based Organization, Sibiu, 2016, p. 133.

confrontation and interfering with the interests of a range of global and regional factors.

As a failure and weakness of a diplomatic co-operation could be pointed out the allowance of ISIS to be created, which also indicates underestimation or even ignorance of the processes in the Middle East. The strong disproportionate migratory pressure has created a crisis in the area of free movement of people, which calls into question the further functioning of the Schengen area and its achievements. This crisis deepened in the wake of the introduction of temporary border controls between Member States that had almost forgotten border checks and had to build border facilities and fences, which were characteristic of other historical periods.

Crucial practical issues are raised, which include the impact of small and medium-sized countries on foreign policy activity and when the state is chairing the Council of the EU. From January till June 2018 the Republic of Bulgaria presided for the first time over the Council of the EU, and foreign policy issues were identified as part of its priorities⁸, including the integration of the Western Balkan countries into the EU in a medium-term perspective.

A significant meeting with undoubted foreign-policy influence was also the EU-Turkey one held in Varna on March 26, 2018, where despite tense relations, success was achieved by restoring the EU-Turkey dialogue and the continuation of the EU-Turkey agreement of March 2016 regarding refugees and migrants.

Brexit's results have also influenced the diplomatic service because from the process of negotiation between the EU and the UK and mutually resolving the contradictory issues it will be clear what Brexit will be like – a “hard“ Brexit. This means limiting EU-UK relations to typical bilateral relations or “soft“ Brexit, retaining in a large number of areas the close cooperation and interests of the EU and the UK.

Britain's expected exit from the EU will also alter aspects of foreign policy relations between the EU, the United Kingdom, and the United States. The British stance is not very clear, although there is an exit procedure since London declares its willingness to participate in the future European Defense Union by 2025. What is ultimately the impact and the possibilities of small and medium-sized Member States on forming the foreign policy process? Is it possible for a state of this kind to influence the foreign policy processes and change the foreign policy position?

The new dimensions of the diplomatic service in the EU are as follows:

⁸ The priorities of the Bulgarian presidency of the Council of the EU are: The future of Europe and young people, the Western Balkans, Security and Stability, Digital Economy. For more information, see the official website of Bulgaria's EU Council Presidency: <https://eu2018bg.bg/en/28>.

- Necessity for a more precise regulation on the interaction between national foreign policy and the CFSP;
- In the relations between the various diplomatic missions and the Ministry of Foreign Affairs of the respective state, which does not have its own diplomatic representation, to organize such protection and under such conditions as for the citizens of the respective state;
- Increased need for a European dimension of consular protection⁹;
- Diplomatic activity and interaction between the national authorities for external relations and the European institutions¹⁰;
- Diplomatic tools and technologies for cybersecurity development, taking timely joint actions on preventing and counteracting cyber-threats.

Without any doubt, it is true that the diplomatic service in the EU will continue to take place in a bright dynamic environment. The major challenges facing states at a national and European level are connected with the formulation of truly achievable aims and more active implementation of the CFSP. In the medium term, the interests between Western and Eastern European states ought to be balanced with a view to implementing common foreign policy priorities. Solving controversies in the foreign policy sphere could be achieved through the adoption of a strategic approach in order to reduce tensions in neighboring regions and improve relations between strategic partners.

References

1. Марин, Н., Христова, А., Анализ на правната уредба на Общата външна политика и политика на сигурност на Европейския съюз според Договора от Лисабон, Изследване на Общата външна политика и политика на сигурност и съседство на Европейския съюз след Лисабонския договор, Университетско издадателство „Неофит Рилски“, Благоевград, 2010 г. (Marin, N., Hristova, A., Analysis of the Legal Framework of the Common Foreign and Security Policy of the European Union under the Treaty of Lisbon, Study of the Common Foreign and Security

⁹ Communication from the Commission to the European Parliament and the Council - Consular protection for EU citizens in third countries: state of play and prospects COM (2011) 149, Brussels, p. 4.

¹⁰ Georgieva, G. *SOME ISSUES RELATED TO FREEDOM OF THE MASS MEDIA AND THE EUROPEAN COURT OF HUMAN RIGHTS' STANDARDS* in ACTUAL PROBLEMS OF CONTEMPORARY INTERNATIONAL LAW, Proceedings of the XVI Blischenko Congress, PART III, April 14, 2018, Moscow, ISBN 978-5-209-09483-8 (ч. III), ISBN 978-5-209-09480-7, Российский университет дружбы народов, 2019, p. 267.

Policy and Neighborhood of the European Union after the Treaty of Lisbon, University Publishing House “Neofit Rilski”, Blagoevgrad, 2010).

2. Communication from the Commission to the European Parliament and the Council - Consular protection for EU citizens in third countries: state of play and prospects COM (2011) 149, Brussels.

3. Council Decision of 26 July 2010 establishing the organization and functioning of the European External Action Service (2010/427/EU), Official Journal of the European Union, L 201/30, 3.08.2010.

4. Georgieva, G. *SOME ISSUES RELATED TO FREEDOM OF THE MASS MEDIA AND THE EUROPEAN COURT OF HUMAN RIGHTS' STANDARDS* in ACTUAL PROBLEMS OF CONTEMPORARY INTERNATIONAL LAW, Proceedings of the XVI Blischenko Congress, PART III, April 14, 2018, Moscow, ISBN 978-5-209-09483-8 (ч. III), ISBN 978-5-209-09480-7, Российский университет дружбы народов, 2019, pp. 266-269.

5. Marin, N., Belova G. A CENTURY OF INDEPENDENCE OF THE BALTIC STATES - SOME SIMILARITIES AND DIFFERENCES WITH BULGARIA, Baltic Yearbook of International Law (in print), Brill Publishing House.

6. Marin, N., Disproportionate Migration Pressure as a Challenge for the National Security of the Republic of Bulgaria, Economic, Social and Administrative Approaches to the Knowledge-Based Organization, Sibiu, 2016.

7. Treaty on the Functioning of the European Union, Luxembourg, 2010.

8. <https://eu2018bg.bg/en/28> (The priorities of the Bulgarian presidency of the Council of the EU are: The future of Europe and young people, the Western Balkans, Security and Stability, Digital Economy).

9. <http://eur-lex.europa.eu/summary/glossary/coreu.html?locale=bg>.