

## **Week 2**

### **Script:**

#### **Who are the relevant actors in the EU's foreign policy making process and relations with Russia?**

As we discussed in the previous lecture, one of the ways to define the EU's ability to act is by looking at the role and functions of concrete institutions that are involved in foreign policy making processes more broadly, as well as those that focus specifically on Russia. Here we can differentiate between supranational actors (European Commission, European Parliament and the Court of Justice of the EU) and intergovernmental actors (the European Council, the Council of the European Union), keeping in mind whether they are representing national interests or interests of the EU; as well as separate units and bodies, such as representatives of national governments and foreign ministries of the member states, that make up these actors.

#### **European Council**

If one has to rate European actors on the scale of the most political and symbolic power - then the European Council can be placed at the top of such ranking. Looking closer at the Treaty of the European Union, we can see that the role of the European Council is to "provide the Union with the necessary impetus for its development" and to "define the general political directions and priorities thereof" (Art. 15 TEU). In relation to CFSP/CSDP, the European Council outlines "the Union's strategic interests" and defines "the general guidelines" and "strategic lines" (Art.26 TEU), in addition to "the strategic interests and objectives" with regard to the EU's external action in general (Art.22 TEU).

Although the European Council is less structured and formal than the other institutions and decisions are taken by consensus, in practice no strategic direction can be adopted in areas of EU competences without at least the tacit consent of the European Council. If we look specifically to foreign policy deliberations in the European Council, including those related to Russia (despite quite limited research available on the subject, see Wessels 2016), it appears that in most of the instances the biggest member states - France, Germany and the UK (although after Brexit the dynamic may change) - play a crucial role in determining the outcomes and direction of the policy.

In addition to gathering the member states' highest representatives, the Treaty of Lisbon also designated a permanent president with a term of two and a half years to the European Council to lead its meetings, coordinate activities and represent the Council externally. Despite the fairly wide-ranging responsibilities, if we look at the impact of the President of the European Council's actions in regard to EU-Russia relations, this role has remained rather minor since the previous and current office holders (Herman van Rompuy and Donald Tusk, respectively) have limited themselves mainly to occasionally issuing statements or giving speeches on the topic, which have not led to systematic impact on policies. This could be partially explained by the fact that their terms coincided with the Euro Crisis and other crises in the EU that have perhaps consumed most of their energies.

In short, the EC provides political leadership and strategic direction, however, the majority of European Council decisions require further political follow-up, operational implementation and/or legal translation - which then fall under the tasks of the Council.

#### **Council of the European Union: Foreign Affairs Council**

In the previous video we looked at the main strategic and political player in the EU's institutional architecture and, when it comes to the direction of the EU's policy towards Russia, the European Council. However, the Council of the European Union (or the Council, for short) is much more hands-on in both legal and political terms in conducting foreign policy in action and could thus be labelled as one of the main foreign policy decision-making institutions in the EU.

The Council meets in 10 configurations with the composition of the meeting depending on the policy area in discussion and the ministers who are scheduled to attend the meeting. When it comes to discussing and formulating the EU's foreign policy, then the Foreign Affairs Council serves as the main medium of configuration for this policy realm. The Foreign Affairs Council deals with areas of foreign policy such as external trade, development cooperation, humanitarian aid, international agreements, CFSP and CSDP. In addition to monthly meetings, foreign minister also meet on a number of other occasions which allow them to discuss and keep the direction of the foreign policy on track - such occasions could be within the margins of major international conferences or during informal meetings for the Minister of Foreign Affairs' rotating Council Presidency (called a Gymnich). Of course, sometimes urgent development in international events necessitate an unforeseen meeting.

The Foreign Affairs Council is chaired by the Higher Representative, except when it discusses trade policy. It is important to note here, the special and hybrid role ("one head, wearing two hats") of the Higher Representative in this context. The HR not only chairs the FAC and conducts the Common Foreign and Security Policy, including the Common Security Defence policy, but is also one of the Vice-Presidents of the European Commission (an important point to bear in mind when we move to discuss the Commission). The High Representative is appointed by the European Council acting by a qualified majority, with the agreement of the President of the Commission for a mandate of 5 years. If we look specifically at the role of the HR when it comes to Russia, then we can draw together a few observations. Despite different institutional remits of the HR's role and expanded responsibilities, it seems that the efficacy of office holders depends not only on formal powers but on their personalities and the situations at hand. For example, of the three office holders (Javier Solana, Catherine Ashton and Federica Mogherini), it was somewhat unexpectedly Solana who, while having formally the most limited mandate, nevertheless managed to have the biggest impact on policy. By contrast, Ashton never seemed to gain a strong foothold in the Russian portfolio, while Mogherini was elected to the post with the voiced criticism that she was too inexperienced and soft to deal with foreign policy effectively, particularly that concerning Russia. To date, it seems that she has indeed been side-lined in the Russia portfolio by member states, and German Chancellor Angela Merkel in particular, and she has concentrated her energies on other international issues, such as the Iran nuclear agreement and the drafting of the revamped EU Global (Security) Strategy.

Of course, as we already mentioned in the course's introductory video that the EU's relations with Russia sometimes also go beyond the "foreign affairs" category. Later in the course, you will see that these relations collide with the EU's external dimension of internal policies - these being trade, energy, environment, etc (we will cover these topics on the section on arenas of EU-Russia relations). However, if you are interested in learning more about the structure of the FAC and its substructures, as well as different competences of the EU as a foreign policy actor and policy-making methods between different actors, please refer to additional material available in this module section.

### **European Commission**

In the previous video we touched upon the challenge of encompassing the full spectrum of EU-Russia relations in only the foreign policy dimension. The same applies to the role and responsibilities of the European Commission when it comes to dealing with Russia. Despite the fact that the Commission holds

the exclusive right of initiating legislature, has negotiating powers on behalf of the EU and encompasses a robust administrative and budgetary apparatus, its specific role concerning relations with Russia is rather stripped down since not all the directorate generals (DGs) are equally important in relations with the respective actor. In this context, three DGs are particularly relevant in relations with Russia, these being Competition, Energy, and Trade. Before the Lisbon Treaty, DG External Relations (RELEX) and the External Relations Commissioner were also naturally of particular importance.

The President of the Commission has also shown consistent interest towards, and at times even played a key role in, the Union's relations with Russia. Jose Manuel Barroso's role grew, for example, in the run-up to the Ukraine crisis. Many Commissioners have played a visible role in Russia relations as individuals, as well. Primus inter pares in this respect was most certainly Chris Patten who, as the External Relations Commissioner between 1999 and 2004, played a key role in steering and representing the EU policy on Russia. In the Commission, the role of the General Secretariat should also be noted as the primary seat of coordination.

In this regard, we can conclude that the European Commission has the monopoly on legislative initiative and important executive powers in policies such as competition and external trade although not all the directorate generals are equally relevant when dealing with Russia.

### **The European External Action Service (EEAS)**

Another institution that is relevant in coordinating and supporting the work of the European Commission and the HR and VP and is particularly relevant with regards to relations with Russia is the European External Action Service - the EU's diplomatic service. The EEAS gathers the external relations features of both the Council and the Commission under one roof. The EEAS comprises officials and other agents from the EU, including personnel from EU members' diplomatic services. It provides support to the President of the European Council, the President of the Council of the European Union and to members of the European Commission for their respective work in the area of external relations. A crucial component of the EEAS is the network of EU delegations (approximately 140 of them), which represent the EU in third countries and at international organisations and conferences. EU delegations are also under the authority of the HR and are to act in close cooperation with the member states' diplomatic and consular missions. It is important to note that the EU delegations enjoy diplomatic guarantees, meaning they hold the same status as any diplomatic embassy.

If we look specifically at the EU delegation to the Russian Federation, we can find information on the respective website that states that "the role of the Delegation involves reflecting upon political events, developments and trends within Russia, as well as between the EU and the Russian Federation, while at the same time supporting the EU-Russia political dialogue. The Delegation thus monitors political life in the country, including issues relating to the areas of human rights, justice, freedom and security, and developments in Russia's foreign (and defence) policy."

Since the events of 2014, some of the policy dialogues and mechanisms of cooperation have been temporarily frozen, which has also affected the work and engagement of the delegation's activities. At the same time, however, the delegation serves as an important focal point for providing information and engaging with civil society and public diplomacy, as well as raising awareness of and the profile of the EU in Russia.

### **European Parliament**

Despite holding budgetary powers and major mandate relating to the adoption of international agreements, the role of the European Parliament in EU foreign policy is generally quite limited,

especially when it comes to the CFSP/CSDP framework, where the Parliament has been granted only a consultative role. The main actors dealing with the EU foreign affairs in the EP structure are the Committees on Foreign Affairs and its subcommittees on Human Rights and Security and Defence, the Committee on Development, and the Committee on International Trade. In addition to the Committees, the EP has more than 40 Inter Parliamentary Delegations for relations with parliamentary assemblies from third countries, regions or international organisations. Another relevant platform of the EP, which played a significant role in highlighting foreign policy developments particularly those regarding Russia, has been the EP Plenary Sessions. During these sessions, individual Commissioners and member state representatives have been invited to appear before the Parliament and engaged in debates as well as accept resolutions on Russia and the Union's relations with it.

It is important to note, that the EP is often perceived as a more hawkish actor in its foreign policy standpoints than the Commission and the Council, and this is particularly applicable to relations with and perceptions of Russia. Very often these attitudes or political standings stem from the principled attitudes of MEPs concerning human rights issues and the political situation in Russia. It is worth noting that when it comes to voting behaviour and the vote concerning Russia, the party affiliations determine the vote more often than nationality.

In this context, we can conclude that despite rather limited formal power of the EP in EU's foreign policy making, the Parliament, directly elected by the European electorate, serves as an important platform for voicing the opinions and presenting issues concerning Russia (and other matters) that may have been more politically sensitive in other configurations, such as in the European Council.

### **European Court of Justice**

Although the main role of the ECJ is to "ensure that in the interpretation and application of the Treaties the law is observed" (ART.19 TEU), as a result of recent developments, especially those regarding EU-Russia relations, it is worth mentioning the role of the court in the external dimension.

The ECJ has quasi-general jurisdiction over all policy areas of the EU, including trade, development policy, environment, the area of freedom, security and justice. etc. Over the last decades, the Court has developed an extensive jurisprudence with regard to the EU's competences in the areas of external action and the external dimension of international policies. At the same time, CFSP/CSDP belongs to one major exception on the Court's quasi-general jurisdiction.

Despite the fact that the ECJ has no jurisdiction to review the legality of the intergovernmental CFSP acts, the ECJ nevertheless has a role to play in reviewing the economic and financial sanctions adopted by the Council, a role that the Court has on previous occasions used to challenge and even overturn certain decisions. This role has acquired increased relevance in light of the legal contestation of the EU's sanctions against certain Russian companies and individuals in conjunction with the conflict in Ukraine.

### **EU Member States**

Before concluding the section discussing relevant political actors involved in shaping the EU's foreign policy, it would be a mistake not to include the role played by the member states, especially when considering EU relations with Russia. As we discussed in our previous videos, defining the EU as a foreign policy actor and outlining common EU policy in general presents a challenge due to the complex nature and intertwined relations of the EU institutions and actors. When we look at the role of the member states in shaping EU policies, we have to keep in mind two-layer structure in which member states are engaging with the EU institutions.

At the EU level or inter-state level, as we already briefly mentioned it in previous videos, the representatives of the member states engage with other relevant officials of member states at the gatherings of the European Council and the FAC. The preparatory work of these meetings (namely the actual details of common policies, especially when talking about Russia) are conducted by another inter-state level formation, the Working Party on Eastern Europe and Central Asia (COEST) - under the Chairmanship of the EEAS. In the COEST, the national diplomats prepare and agree on issues and policies to be further debated and eventually decided upon in the Political and Security Committee (PSC) or the Committee of Permanent Representatives of the EU (COREPER II) that both meet at an ambassadorial level. Another important framework prior to the Treaty of Lisbon, which allowed member states to outline and determine the direction of EU foreign policy most concretely, was the rotating presidency of the Council. Especially relevant for shaping EU-Russia relations was an EU-Russia summit, the agenda of which the country holding the presidency often actively fostered. Although some member states managed to advance their own EU-Russia relations agendas during the presidencies (such as Finland in 1999 with inserting the Northern Dimension onto the EU-Russia agenda and organizing a dedicated foreign ministers' conference on the topic), one of the reasons why the rotating presidency was abandoned was that the short cycle of presidencies was seen as being too brief to foster a consistent foreign policy. Under the Lisbon Treaty, the member states still have the rotating presidency of the Council, but with regards to matters other than foreign affairs, thus their role in foreign policy is clearly diminished, although not entirely negligible.

At the national level, member states have to deal with the existing dynamics of bilateral relations and traditions of engagement that they hold with a respective state. This statement is particularly relevant when we are looking at relations with Russia, which has been seen as a particularly sensitive and divisive subject for the EU and its member states. In their famous 2007 work "A Power Audit of EU-Russia Relations", scholars Mark Leonard and Nicu Popescu tried to categorise member states on the basis of their approach to Russia and devised the following categories. The "Trojan Horses" (Cyprus and Greece) often defend Russian interests in the EU system, and are willing to veto common EU positions, the "Strategic Partners" (France, Germany, Italy and Spain) cherish a special relationship with Russia, the "Friendly Pragmatics" (Austria, Belgium, Bulgaria, Finland, Hungary, Luxembourg, Malta, Portugal, Slovakia and Slovenia) maintain a close relationship with Russia and tend to put their business interests above political goals, the "Frosty Pragmatists" (Czech Republic, Denmark, Estonia, Ireland, Latvia, the Netherlands, Romania, Sweden and the UK) focus on business interests but are less afraid to criticize Russia on human rights issues, and the "New Cold Warriors" (Lithuania and Poland) who have overtly hostile relationships with Moscow and are willing to use their veto powers to block EU negotiations with Russia. Of course, these categories are over generalisations and might often be misleading since national positions tend to change and differ from the established image as well as depend on the issues at stake and ongoing developments in the political landscape. Recent events in Ukraine, the shooting down of Malaysia Airlines flight MH17, the rise of populism in Europe, the poisoning of Sergei and Yulia Skripal in Salisbury, as well as other developments has re-shaped the nature of these categories and moved some pragmatists to take more hostile positions and vice versa.