Musical Chairs Revisited: Status and Terms of Participation of the European Union in the UN Peacebuilding Commission

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This article assesses the status, denomination and terms of participation of the European Union (EU) in the United Nations (UN) Peacebuilding Commission within the wider context of the EU at the UN, especially at the General Assembly and the Security Council. Although EU-UN cooperation at an institutional and operational level is considered by both organizations as mutually beneficial, neither the procedural rules of the UN which are only open to state membership nor the complex constitutional architecture of the EU are conducive for “Europe” to always acquire a satisfactory status in UN bodies and agencies. Therefore this contribution first reconsiders the relevant legal parameters for status determination and participation at both the UN and EU level – regarding the latter with parallel analysis of the amendments brought about by the Treaty of Lisbon. It then examines the negotiating history that led to the eventual compromise of a “de facto common delegation” for EC/EU representation within this new “intergovernmental advisory body.” It is contended for reasons that are linked, inter alia, to the peculiar

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set-up of the Peacebuilding Commission that the EU’s participation therein resembles and to a certain extent goes beyond the “enhanced observer” or “full participant” status that the European Community enjoys in other international organizations and conferences.

Introduction

The European Union’s (EU)\(^1\) foreign policy *credo* is underpinned by effective multilateralism. Its commitment in this respect can be found in numerous unilateral and bilateral documents, especially *vis-a-vis* the United Nations (UN). The EU’s primary law provisions\(^2\) equally give credit to the importance of EU-UN cooperation with the Treaty of Lisbon being particularly explicit. Article 42 TEU (Lisbon) for instance seeks to ensure that the civilian and military assets for “missions outside the Union for peace-keeping, conflict prevention and strengthening international security” are used “in accordance with the principles on the United Nations Charter.” A further provision applicable to all of the EU’s external action entails the obligation to “promote multilateral solutions to common problems, in particular in the framework of the United Nations.”\(^3\) This provision is reiterated and thus emphasized under the provisions “specific to the Common Foreign and Security Policy”, pursuant to which “the Union’s action on the international scene shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with”\(^4\) the principles of the United Nations Charter and international law. In addition, the amended provision on development cooperation\(^5\) contains, as does the current provision (Article

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1) In this article, the term “European Union” denotes the European Union as a whole, that is the European Communities as supplemented by the Common Foreign and Security Policy and the cooperation on police and criminal matters (commonly referred to as II and III pillars). If it acts only under the II pillar, the term CFSP-Union will be used.

2) The treaty provisions in this contribution refer, unless otherwise indicated, to the current treaties: The Treaty on the European Union (TEU) and the Treaty establishing the European Communities (ECT). The future provisions as amended by the Treaty of Lisbon will be referred to in their consolidated version, namely the Treaty on European Union (TEU (Lisbon)) and the Treaty on the Functioning of the European Union (TFEU).

3) Art. 21 TEU (Lisbon).

4) Art. 23 TEU (Lisbon).

5) Art. 208 (2) TFEU.