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EU member states at the UN: a case of Europeanisation arrested?[1]

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Abstract: This article addresses two questions about the EU's and EU member states' diplomacy in the UN General Assembly's Third Committee and the Human Rights Council: Have EU member states been more, or less, active outside the framework of EU coordination since the entry into force of the Lisbon Treaty? Has EU activity increased? The findings are that EU member states have been increasingly active at the Human Rights Council and have increasingly worked with other states outside of the EU, while the level of EU activity has remained largely the same. In the Third Committee, member states speak more than the EU but neither the EU or member states have been sponsoring more resolutions. Europeanisation is 'arrested' in these cases, as member states are reluctant to push for more EU activity because both the internal intergovernmental decision-making system and external context discourage it.

This article examines the impact that the Lisbon Treaty has had on the activity of the European Union and its member states in the intergovernmental bodies of the United Nations (UN) related to human rights. EU member states are members of the UN in their own right, but for over twenty-five years have sought to coordinate their voting positions, issue statements in the name of the EU and put forward resolutions in the name of the EU on human rights issues. The EU's activity at the UN forms an important part of its external human rights policy and its general support of multilateralism (see Council of the European Union 2015b; European Council 2003; European Union 2016). The Lisbon Treaty, which entered into force on 1 December 2009, was intended to strengthen

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the EU's capacity to exercise influence in international affairs, including of course at the UN. Recent research, however, has illustrated that tensions persist between the strengthening of institutions and expectations for EU foreign policy-making, and member states' continuing desire for autonomy in foreign affairs (Balfour, Carta and Raik 2015a; Spence and Bátora 2015).[2]

Has the Lisbon Treaty led to more convergence, defined here as more output in the name of the EU at the UN? Are member states increasingly acting through the EU and curtailing their national initiatives and diplomacy? These are classic signs of Europeanisation (Alecu de Flers and Müller 2012; Wong and Hill 2011). Or has the creation of the European External Action Service (EEAS) freed up space for member states' diplomacy, thus showing that processes of Europeanisation have clear limits?

'Output' here encompasses two types of activity: sponsorship of resolutions and issuing of statements. 'EU activity' means activity that is done in the name of the EU (whether this is carried out by the presidency or the EU delegation), and 'member state activity' covers that done in the name of an EU member state. 'Convergence' is understood here to entail more EU, and less member state, activity: a process whereby the member states increasingly pursue (upload) their policy objectives in UN human rights fora through the EU. Of course, member state activity could align with that of the EU: indeed, member states often support EU positions in their own statements. 'One message spoken by many voices' may indicate convergence on substance. But member states usually add a 'national twist' in their statements – or ignore the EU altogether – which can cloud perceptions of EU unity amongst the wider UN membership, and undermine the EU's message.

The article compares the activities of the EU and the EU member states in the Human Rights Council (HRC) and the UN General Assembly's Third Committee, two bodies where the Lisbon Treaty has been implemented to a different extent. Several puzzles are uncovered: in the HRC, the EU has not become more active, while EU member states have increasingly acted outside the EU framework; at the Third Committee, EU and member state activity is similar in terms of sponsoring

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[2] A UK withdrawal from the EU, supported by a majority in a June 2016 referendum, illustrates clearly the desire for national autonomy.

resolutions though member states speak much more than they did in the pre-Lisbon period, and more than the EU does.

The data on EU and member state activity is readily available in the official records of the Human Rights Council and Third Committee.[3] The analysis of the data is based on interview material spanning more than a decade: interviews with over twenty diplomats and human rights activists conducted in Geneva, New York and London in 2014 and Brussels in 2016, as well as interviews conducted with almost thirty diplomats involved in EU-UN relations between 2003 and 2010, in Brussels, Geneva, London and New York. They were asked a series of questions about the EU coordination process, their state's role in the coordination process and UN human rights fora in general, and the diplomatic dynamics within the Third Committee and HRC.[4]

The first section of this article summarises the changes that have been made in the EU's coordination and representation functions at the UN, and introduces the key questions addressed in the article. The second section presents the findings of the empirical investigation. The third section seeks to explain the findings.

1 Implications of the Lisbon Treaty for EU coordination and representation at the UN

Before the Lisbon Treaty entered into force, the presidency chaired coordination meetings in New York and Geneva, and the Council working group on human rights (COHOM) in Brussels. COHOM did advance work on the resolutions and statements that the EU would present in the UN, though most of the details of those texts were decided in coordination meetings in New York or Geneva, as were any arrangements to convince non-EU states to support EU initiatives. Because COHOM met only once a month and had numerous other items on its agenda, it was not the first 'port of call' if the

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[3] Official reports of each session of the Human Rights Council are available at
http://www.ohchr.org/EN/HRBodies/HRC/Pages/Sessions.aspx. Detailed records of resolutions, voting records, and schedules of sessions are available on the webpages of each year's meeting of the Third Committee, available at http://www.un.org/en/ga/third/index.shtml. Reports of the sessions of the Commission on Human Rights (the HRC's predecessor) are available at
http://www.ohchr.org/EN/HRBodies/CHR/Pages/PreviousSessions.aspx.
[4] In 2004, the questions regarded the predecessor to the HRC, the Commission on Human Rights.

member states had difficulties in reaching agreement on details, so member state diplomats referred back to their capitals and then tried to work out solutions on the ground in New York or Geneva (Smith 2006, p. 102). The rotating Council presidency represented the EU in the UN, making statements and presenting resolutions on the EU's behalf. The pre-Lisbon Treaty situation was thus quite decentralised, with member state capitals playing a major role, and localised, in that diplomats in New York and Geneva had considerable room for manoeuvre.

The Lisbon Treaty provisions have contributed to a centralisation and 'Brusselisation' (Allen 1998) of the procedures for reaching agreements on EU priorities and activity in UN human rights fora. The Foreign Affairs Council, committees and working groups (including COHOM) are chaired by either the High Representative for Foreign Affairs and Security Policy or European External Action Service (EEAS) representatives, not the Council presidency. The Brussels-based institutions have tried to take a more strategic approach to EU external human rights policy in general, as signalled in the 2012 EU Strategic Framework and Action Plan for Human Rights (Council of the European Union 2012b; see also Wouters and Meuwissen, 2013, pp. 14-19). Moreover, since 2012, the Foreign Affairs Council annually has set out a list of priorities for the EU in UN human rights fora (Council of the European Union 2012a, 2012b, 2013, 2014, 2015a, 2016). COHOM decides and drafts the resolutions that the EU presents in UN human rights fora, in cooperation with EU delegations in New York and Geneva. There are now two COHOM formations, one consisting of member state experts based in Brussels, and the other consisting of experts from the member states' capitals. The latter is responsible for coordinating EU policy in UN human rights fora. Over the past few years, COHOM has met much more frequently than it did before (Baranowska et al, 2014, pp 48-50; Wouters and Meuwissen 2013, p. 15), including occasionally in Geneva. The details of the texts of EU resolutions or statements, the strategy for engaging with other UN states, and other such matters are still decided on the ground in New York or Geneva, but here too there has been centralisation. In both locations, a new EU delegation, part of the EEAS, took over the chairing of EU coordination meetings in 2010.

The question of who would present the EU's positions in the UN – the EU delegation or the EU presidency – proved to be highly contentious (Guimaraes 2014; Laatikainen 2015). The EEAS, the High Representative and numerous EU member states argued that the Lisbon Treaty mandated a change of the EU's observer status in the UN, because it conferred 'legal personality' on the EU, and indicated that the High Representative, supported by the EEAS, would represent the EU in international affairs. But an enhanced observer status for the EU was won at the General Assembly only in May 2011, several months after the UNGA had deferred debate on the issue over concerns that European states were asking for special treatment unavailable to other groups. The status grants the EU delegation (and eventually, other regional organisations if they meet certain conditions) the right to speak in debates, sponsor draft resolutions on behalf of the member states, submit amendments and reply to other delegations, but not to vote or co-sponsor draft resolutions (United Nations General Assembly 2011).

The EU's push for enhanced status was also contested within the EU. In 2011, the UK blocked the issuing of over 70 statements in the UN General Assembly and its committees because it argued that where there were mixed competencies, the EU could not automatically speak on behalf of the member states (Borger, 2011). The issue was resolved in late October 2011, when the Council agreed that the statements would specify whether they were 'on behalf of the European Union', 'on behalf of the European Union and its member states', or 'on behalf of the member states' (Council of the European Union 2011).

As a result of the internal and external resistance to a different status for the EU, 'transitional' arrangements are still in place at the Human Rights Council, even though it is a subsidiary body of the General Assembly. Essentially, either the presidency or the delegation can speak on the EU's behalf: the presidency speaks at general debates; the EU delegation delivers statements at interactive dialogues and panels. Thus, in Geneva, the EU delegation is less central to EU representation, and EU member states play a greater role.

Despite these variations, the EU's policy in UN human rights bodies is one that is relatively 'strong', to use Henrik Larsen's criteria (Larsen 2005, p. 46). Even though intergovernmental decision-making rules apply, the EU has diplomatic resources to pursue detailed objectives, there is day-to-day involvement by the EU, and there has been persistent support at high levels for the policy. The question then is whether EU member states conduct their own diplomacy at the UN primarily within the EU framework or outside it. On the basis of his model of EU policy strength and Danish actorness, Larsen suggested that at the HRC, Denmark was likely to conduct much, but not all, of its diplomacy inside the EU (Larsen 2005, p. 202).

This article seeks firstly to gauge whether or not the institutional changes sparked by the Lisbon Treaty have affected the output of the EU and its member states at the UN, and then to explain the findings. It does not look at voting cohesion, which in the area of human rights has generally been quite high (Luif 2003; Hug and Lukács 2014; Smith 2010; see also Jin and Hosli 2013) so there is unlikely to have been a noticeable change in this since the Lisbon Treaty. The article addresses two questions about the EU's and member states' diplomacy in the Third Committee and the Human Rights Council:

1) Have EU member states been more, or less, active outside the framework of EU coordination since the entry into force of the Lisbon Treaty?

2) Has EU activity increased since the entry into force of the Lisbon Treaty?

2 EU and member state activity at the UN

The Human Rights Council is the UN's most important forum on human rights, with a remit to promote and protect human rights worldwide. It was created in 2006, to replace the old (discredited) Commission on Human Rights. It is made up of 47 states elected from the UN's five official regional groups, and meets three times a year in Geneva, for no fewer than ten weeks, in March, June and September. One-third of the HRC membership can call for a special session to be held on urgent situations. The General Assembly's Third Committee examines human rights

questions and a range of other social and humanitarian issues.[5] It meets every autumn in New York, and all UN member states sit on it.

Resolutions

The main activity in both bodies is the debating of resolutions on human rights issues. Although these are non-binding, debates on many resolutions – such as those related to particular countries, or to topics such as discrimination on the basis of sexual orientation – can be intense. HRC resolutions can enable fact-finding missions by 'special procedures' (experts) or commissions of inquiries, which have at least the potential to influence public debate or even developments on the ground. While the impact of the resolutions on the actual protection of human rights may be doubted (see, for example, Hafner-Burton, 2013, pp. 68-9, 129, and 195-96), states are trying to set or enforce standards through a process of 'collective legitimisation', or gaining the approval of most or all of the UN member states (Claude 1966, p. 370).

The HRC debates about twice as many resolutions than does the Third Committee (around 100 versus 40 or so), a result partly due to the longer time it is in session each year, and partly due to its role as the premier intergovernmental body on human rights in the UN system, though there has been concern about the growth in the number of resolutions presented there. In 2015, the total number of resolutions contracted for the first time, to 95, the lowest in five years (yourHRC.org, 2015). Most diplomatic activity regarding international human rights is focused on the HRC, but New York is an important site for collective legitimisation by the entire UN membership.

Figures 1 and 2 compare the numbers of resolutions in the Third Committee and in the HRC[6] introduced by the EU and by EU member states on their own, over a period of twelve years, with the entry into force of the Lisbon Treaty in the middle. It should first be noted that member states have

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[5] Human rights questions dominate the Third Committee's agenda, but it also considers issues relating to social development, crime prevention and cultural heritage. This article only analyses action with respect to human rights issues.

[6] To give a fuller picture of the decade of EU activity, the data includes resolutions presented at the HRC's predecessor, the Commission on Human Rights, in its last two years of functioning. The CHR met only once a year for six weeks and had 53 members. There are enough continuities to justify including data from the CHR in 2004 and 2005: notably, many of the same resolutions that were run at the CHR have been run at the HRC.

long sponsored resolutions on a national basis. What is of interest here is whether member states

are increasingly seeking to upload their preferences for resolutions to the EU level, and whether the
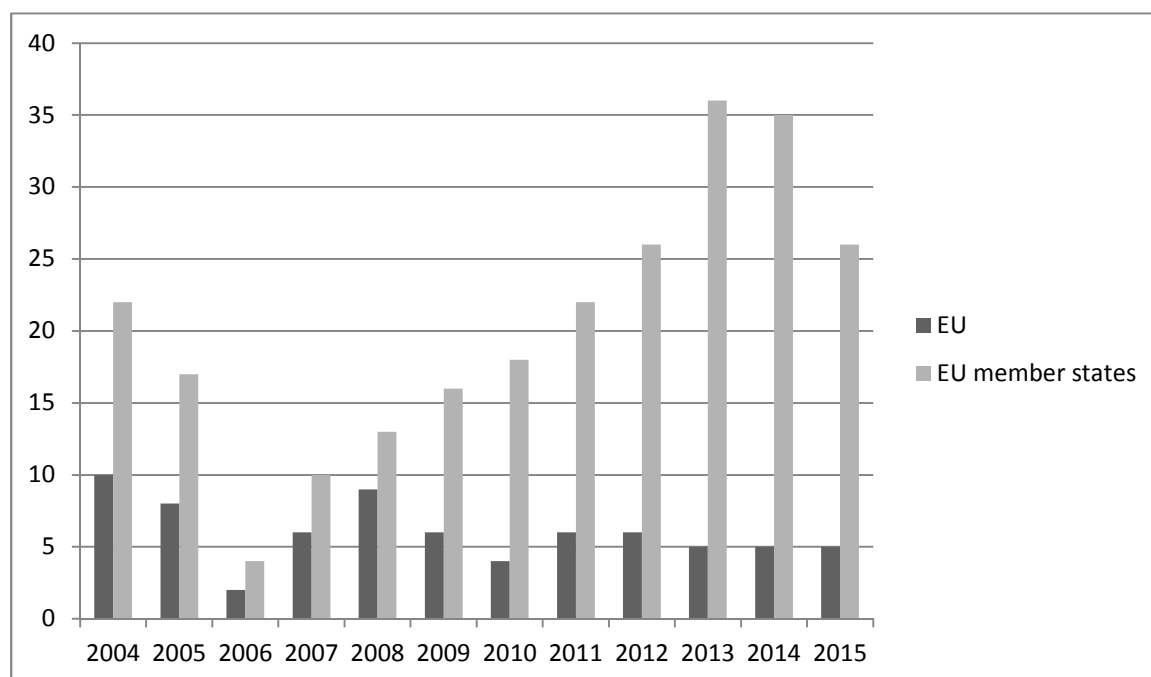
EU is increasingly active as a result.

Figure 1: Resolutions presented at the Third Committee of the UN General Assembly, 2004-15
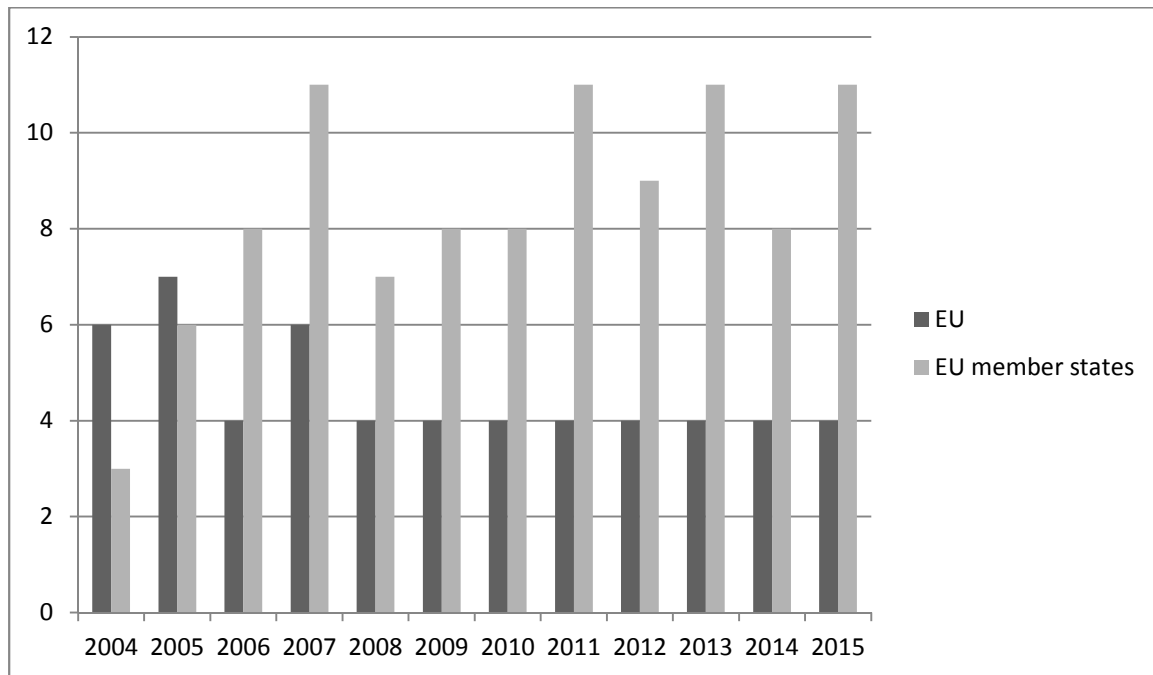
Source: 'Status of action on draft proposals' for each Third Committee session.

Figure 2: Resolutions presented in the Human Rights Council, 2006-15, and Commission on Human Rights, 2004-05

Source: Reports of the Human Rights Council regular sessions and the Commission on Human Rights sessions.

Three striking conclusions arise from the data. Firstly, the number of resolutions presented by the EU in both bodies is very similar, especially since 2009, despite the EU delegation's higher profile in New York. Second, the number of resolutions presented by the EU in both the Third Committee and the HRC has not increased since 2009. The Lisbon Treaty seems to have had little impact (yet) in terms of more EU activity. Third, and most strikingly, there has been a dramatic increase in the number of resolutions 'run' by EU member states acting on a national basis in the HRC. (The decrease in 2015 is mostly due to an efficiency drive in the HRC, to reduce the number of resolutions debated; see yourHRC.org 2015.)

A closer look at the topics of the resolutions presented by the EU and the member states is also revealing. The EU runs resolutions on the same issues again and again, though of course the actual content of each resolution differs according to the current situation. In both institutions, the

EU has sponsored resolutions on the same four topics for virtually the entire period: the human rights situation in Myanmar; the human rights situation in North Korea;[7] the rights of the child;[8] and freedom of religion/belief.[9]

In the Third Committee, the EU has run those same four resolutions for years: Myanmar since 2002, North Korea since 2005, the rights of the child since 1998, and freedom of religion/belief since 2005. Before 2008, the EU was more active, running resolutions on the abolition of the death penalty (once), and the human rights situations in Belarus (once), the Democratic Republic of Congo, Sudan, Turkmenistan, Uzbekistan and Zimbabwe. In the HRC, the EU has run the four resolutions (Myanmar, North Korea, rights of the child, freedom of religion) since 2007, as well as one on Belarus since 2011; in 2012, it sponsored one on Syria, and before 2012, on Sudan, Darfur, and technical assistance to Burundi, DRC, Liberia, and Tunisia.

The EU has thus specialised in a few, particular topics. This is not unusual: most of the resolutions presented in both the HRC and Third Committee have been debated for years, even decades. However, stasis exists alongside some innovation, with a few new topics and/or country situations discussed each year. The EU, though, is not the source of any change in HRC or Third Committee debates.

EU member states also specialise, with some running resolutions on the same topic for years. For example, Denmark traditionally sponsors a resolution on torture at the Third Committee and the HRC; Austria runs one on the rights of persons belonging to minorities in both bodies; and Sweden and Finland take turns presenting a resolution on extrajudicial, summary or arbitrary executions in both bodies. At the Third Committee, all but seven EU member states presented 'national' resolutions in the 2004-15 period; the most active have been Austria, Denmark, Finland, France, and Sweden. The smaller northern member states have classically been among the 'middle

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[7] The resolution on North Korea is always co-sponsored with Japan.
[8] The resolution the rights of the child is always co-sponsored with the Group of Latin American and Caribbean States.
[9] Until 2012, the resolution was entitled 'Elimination of all forms of intolerance and of discrimination based on religion or belief'. Its content substantially overlaps with the later resolution on 'Freedom of religion or belief', so the two can be considered versions of the same resolution.

powers' at the UN and continue to be active. At the HRC, only four EU member states have not run resolutions (Bulgaria, Latvia, Luxembourg and Malta);[10] the most active have been Austria, France and Germany.

In the past, some member states have uploaded 'their' resolutions to the EU level. For example, until 1994, France ran the resolution on human rights in Myanmar at the Commission on Human Rights but then the EU took it over; until 2004, Ireland ran a resolution on religious intolerance at the CHR but then uploaded it to the EU level; and the resolution on the rights of the child had been sponsored by Sweden before it joined the EU in 1995. Thus, many of the resolutions that the EU specialises in now were previously the initiatives of individual EU member states. But since 2004, no 'national' resolution has been uploaded to the EU level.

There has even been a case of 'nationalisation'. In March 2012, the EU sponsored a resolution on the human rights situation in Syria at the HRC. However, interviewees revealed that after intense discussions within the EU in the spring and summer of 2012, the member states decided that the EU would not sponsor a resolution on Syria in the Third Committee (instead a group of Arab states runs the resolution), and that the resolution in the HRC would be led by France, Germany and the UK together with a group of Arab states. Two reasons prompted the decision: the EU delegation in New York was not yet ready to run such an important resolution; and it was felt that the Arab states needed to be kept 'on board', which would be more difficult to do if the EU was involved.

At the HRC, EU member states have been running resolutions on new topics. These include resolutions on human rights and the internet (Sweden and others), the safety of journalists (Austria and others), civil society space (Ireland and others), and human rights and the environment (Slovenia and others). This is happening to a lesser extent at the Third Committee, with, for example, Germany and Brazil running a resolution on privacy in a digital age in 2014.

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[10] A 2011 resolution at the HRC on human rights in Libya was sponsored by all the then twenty-seven member states, not quite in the name of the EU but almost; if this were included then all the EU's member states have run resolutions.

EU member states are thus taking leading roles and introducing resolutions on innovative topics themselves: they are not uploading their preferences to the EU level. Instead, they have been working with other partners or in cross-regional groups. For example, in 2014, 27 of the 35 resolutions sponsored by EU member states at the HRC were run together with non-EU states; in 2015, 23 of 26 EU member state resolutions were sponsored with non-EU states. Compare this to 2007 and 2008, years in which only one 'national' resolution was run with a non-EU state. The groups within which EU member states have been active can be informal cross-regional or ad hoc groups (often formed solely for the purpose of collaborating on a particular issue), or more formal groups such as the Nordic Group or the Organisation internationale de la Francophonie. The use of such alternative fora by EU member states is new: the Nordic Group had been quiescent since Sweden and Finland joined the EU (Laatikainen 2003; Laatikainen 2015), and the Francophonie had almost never been active in the UN on human rights issues. But now there is coordination within both groups.

The EU has been relatively more active at the HRC in requesting special sessions to be held on urgent human rights issues. Through December 2015, 24 special sessions have been called; the EU has called for six of them (three of which were on human rights in Syria). EU member states have also requested three special sessions, but on these occasions all of the EU member states serving on the HRC did so.[11]

Statements

The activity of speaking in the HRC or Third Committee entails giving statements on draft resolutions and during panel discussions and interactive dialogues with 'special procedures'. Figures 3 and 4 provide information on the extent to which the EU speaks on behalf of the member states, and member states speak on a national basis. EU statements here include statements given by the EU delegation, or by the presidency or another member state in the EU's name. Statements by EU

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[11] The EU called for sessions on human rights in the Democratic Republic of Congo (November 2008), Libya (February 2011), Syria (August 2011, December 2011 and June 2012) and Iraq (September 2014). EU member states called for special sessions on human rights in Darfur (December 2006), Myanmar (October 2007), and Sri Lanka (May 2009).

member states can (and often do) back up the EU's position, but usually add something 'national' or not even refer to the EU at all, so convergence is not clear-cut, and to the wider UN membership, the EU may not appear unified.[12]

Given the large quantity of statements, Figures 3 and 4 give an idea of trends. Figure 3 reports the statements in the Third Committee debates on two agenda items: 'human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms', and 'human rights situations and reports of special rapporteurs and representatives'. A large proportion of the resolutions debated in the Third Committee (including the most controversial ones) fall under these items.[13] Figure 4 reports the number of statements given in the September session at the HRC each year.[14]

Figure 3: Statements given on behalf of EU or member states in UNGA Third Committee debates on 'human rights questions' and 'human rights situations', 2004-2015[15]

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[12] For example, in the Third Committee sessions considered here, Greece and Cyprus make statements every year on the Turkey-Cyprus dispute.

[13] The figure includes statements given only in the general debates, not in the sessions during which proposals were considered, as this would overlap with figures on resolutions presented. The debates usually take place over 7 or 8 days, and both agenda items are covered at the same time.

[14] It does not include any activity with respect to the Universal Periodic Review (UPR), a process by which the human rights records of all UN member states are assessed by Human Right Council members. The EU engages in hardly any coordination on the UPR.

[15] No data is included for 2012 as numerous UN meetings were cancelled due to Hurricane Sandy.
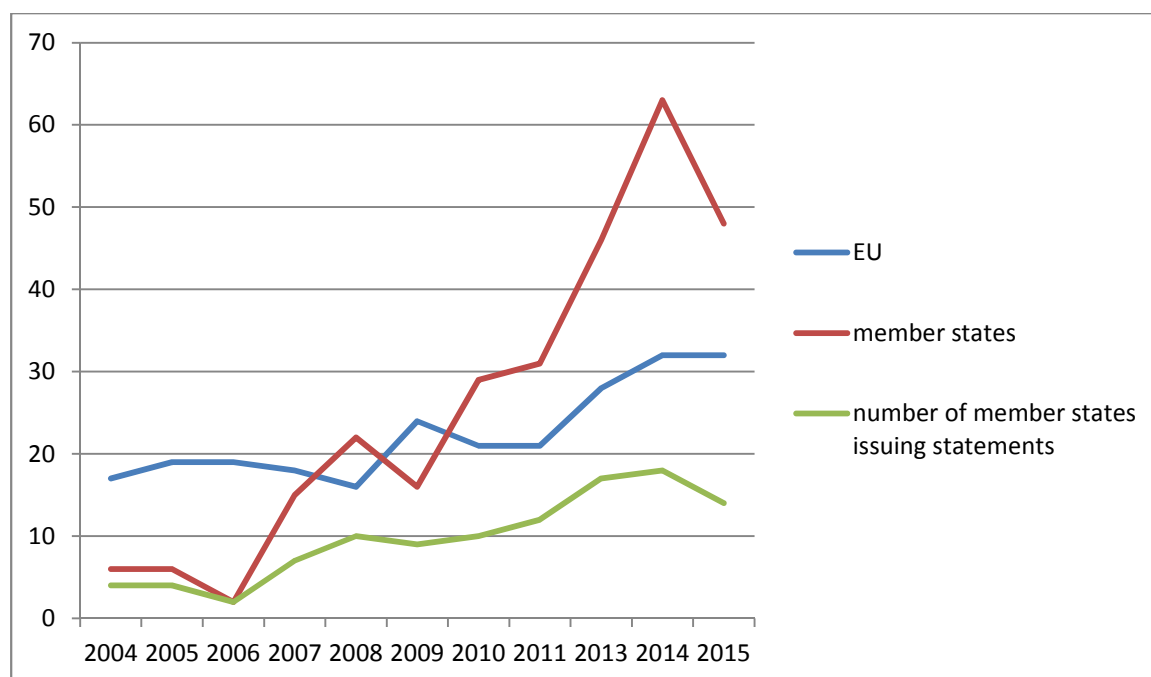
Source: Summary Records of each meeting, available on UNBISnet.

Figure 4: Statements, explanations of vote and comments in relation to vote, given by the EU or by the member states, in the September HRC session each year
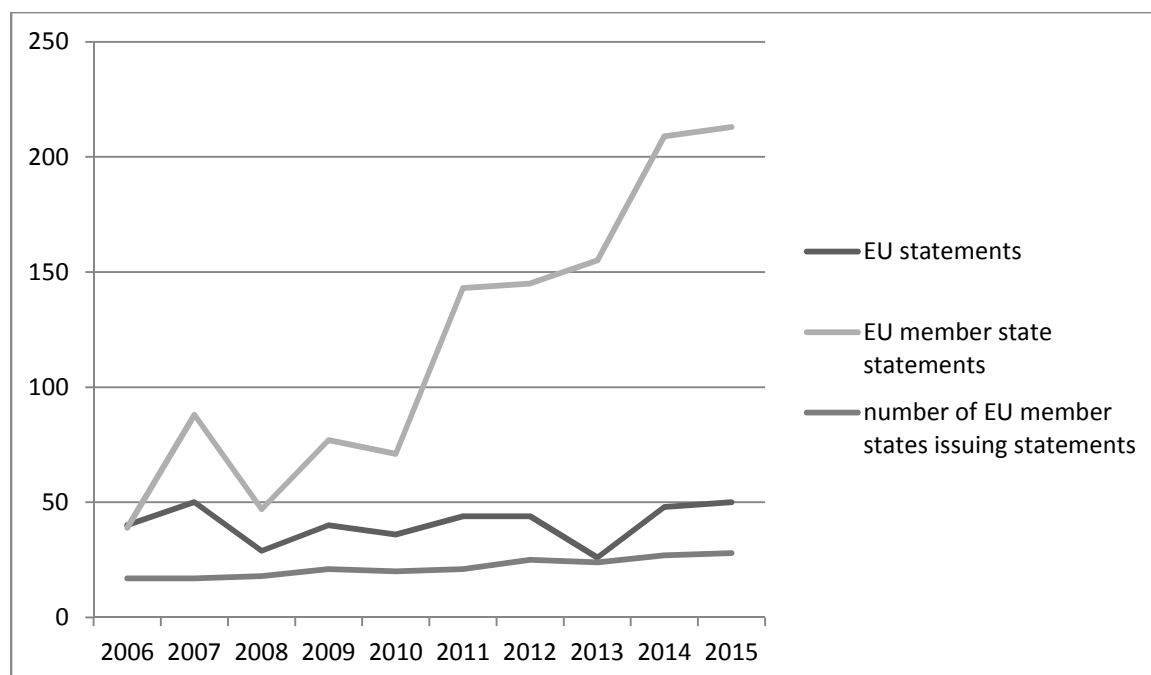
Source: Reports of the Human Rights Council for each September session.

Figures 3 and 4 both illustrate that the EU speaks frequently and that number of EU statements has not increased over the period at the HRC, but has increased steadily in the Third Committee. In the Third Committee sessions on the two agenda items, statements by member states have increased even more than those on behalf of the EU and more member states have been issuing statements. Interviewees claimed that the EU delegation in New York is quite 'rigid' with respect to EU discipline, seeking to ensure that only the EU delegation speaks on the issues on which the EU is coordinating, though the data does not show that when the EU delegation speaks, EU member states do not.

In the HRC, there is a clear trend of the EU member states speaking more on their own behalf, or on behalf of either cross-regional ad hoc groups or more formal groups such as the Nordic Group and Francophonie (see above). But this increased activity by EU member states outside the EU is not accompanied by a clear decrease in the number of EU statements; member state activity is not reducing EU activity.

3 Explaining the findings

Two important findings leap out from the empirical data:

1. EU member states have been increasingly active at the Human Rights Council, in terms of both resolutions and statements. Although member states have always presented 'national' resolutions and issued 'national' statements, more of the EU's member states are active and the level of activity overall has risen. EU member states have also increasingly worked with other states outside of the EU. The number of member states' statements in the Third Committee has also grown faster than the number of EU statements, and more member states are speaking during debates on the two agenda items.

2. The level of activity of the EU in terms of resolutions has remained largely the same in both the HRC and the Third Committee, while the number of EU statements has been steady at the HRC and increased somewhat in the Third Committee.

Intergovernmentalists might object that these findings are not a puzzle, as they simply reflect national preferences, though as explicated below, the interesting questions are *why* the member state prefer not to boost EU activity (despite agreeing to institutional reforms in the Lisbon Treaty) and *why* they have been increasingly acting outside the EU particularly in the HRC context. The findings are a puzzle if we assume that the processes of institutionalisation and/or socialisation lead to both greater EU activity over time and the Europeanisation of member states' diplomatic activity, notably in the form of uploading preferences to the EU level. Higher EU activity and concomitant lower levels of member state activity indicate a process of convergence fostered by the new institutions and procedures of the Lisbon Treaty (Wong and Hill 2011; Hill and Wong 2011). This in turn could be the result of rationalist cost-benefit calculations, in which EU member states consider it beneficial to use more efficient EU institutions to pursue common positions and activities, and curtail their own diplomatic efforts as a result, instead uploading their preferences to the EU level. More efficient central institutions could help states to achieve their preferences and exercise influence. Or increased EU activity could be the result of socialisation, as EU member states increasingly come to see EU action as desirable and consider it appropriate for EU institutions to take a leading role, and therefore conduct more of their foreign policy activity through the EU.

The findings confirm trends that have recently been noticed or predicted elsewhere. As Christian Lequesne noted, 'In European integration, the institutionalization of any policy produces simultaneously convergence and resistance from the member states' (Lequesne 2015, p. 54; see also Saurugger and Terpan, 2015), though he argued such resistance in the foreign policy area comes primarily from large member states (as seen above, small and large member states have acted outside the EU in the HRC). Balfour, Carta and Raik concluded that EU member states still can choose to address international challenges through the EU or outside it (Balfour, Carta and Raik 2015b, p.

198). Katie Laatikainen argued that the new institutional arrangements in New York have 'liberated member states to pursue other less institutionalised diplomatic pursuits' (Laatikainen 2015, p. 211), and she called for further research into this possible trend.

This article thus seeks to explain not just the stability in EU activity but the increase in member state activity in the HRC in particular.[16] The lack of innovation is apparent at the top of the EU machinery. EU priorities in UN human rights fora have even become less specific about what the EU will do (Council of the European Union 2012a, 2013, 2014, 2015a, 2016). The Council documents for 2012 and 2013 list numerous human rights issues about which the EU is concerned and also indicate that the EU will present resolutions on some of those issues (the usual resolutions noted above); the documents for 2014, 2015 and 2016 do not indicate that the EU will present resolutions on any of them. In none of the documents is it clear how the EU will express its concern (in a statement? during an interactive debate? by working with other UN states?).

The Foreign Affairs Council (and COHOM below it) has thus neither set out a clear strategy for EU activity in UN human rights fora, nor indicated that the EU will be initiating any new activity. Interviews and other accounts indicate that since the Lisbon Treaty entered into force, COHOM and the EU delegations have been 'overloaded'. Even though COHOM has split its work into two formations, and meets more often, it has still struggled to handle the workload (Baranowska et al, 2014, p. 119). Interviews indicated that the EU delegations in New York and Geneva have experienced constraints just trying to take over the role that the presidency used to play (as the example of the Syria resolution, above, illustrates). Thus the central EU institutions have been unable to do much more than handle 'inherited' statements and resolutions. Although burden-sharing between the EU delegation and member states exists in New York and Geneva, it is not systematic and depends on member states volunteering to help (Laatikainen 2015; Spence 2015).

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[16] The new member states did not contribute much to the increase in either UN forum. In the Third Committee, Bulgaria issued 2 statements in 2014, Croatia one in 2014 and Romania one in 2013, and none have sponsored resolutions. In the HRC, Bulgaria and Croatia speak rarely, if at all, though Romania does (up to 9 times in 2011, but less so in other years), Bulgaria has not sponsored a resolution, while Croatia and Romania have participated in groups that have introduced resolutions, but always with other EU member states.

Geneva is particularly difficult, because the HRC is almost always in session. As one interviewee put it, the EU struggles to 'gear up' for the constant engagement on human rights in Geneva.

Why do the member states appear reluctant to support collective EU activity and to provide more dynamism by uploading their preferences to the EU level? Interviews indicate a mixture of familiar reasons (constant over the past decade) and new ones. First of all, the intergovernmental nature of decision-making in the EU is a crucial and well-known factor. The process of reaching consensus within the EU can be slow, laborious or impossible if one or more member states blocks a group position. The need for consensus can either inhibit collective action entirely or water it down. Coordinating twenty-eight member states' views takes time; on fast-moving issues, member states may prefer to work nationally or in other groups in order to ensure their policy preferences are met. Three examples illustrate the impact of intergovernmental decision-making. Germany could not upload its preference regarding privacy in a digital age to the EU level because the EU is divided on privacy issues, with the UK in particular opposing Germany. France has worked with African states on issues relating to the Sahel, partly because its preferences are not completely shared within the EU and partly because the Sahel situation developed quickly and the EU could not act as rapidly as a looser cross-regional grouping could. Nordic Group members prefer to work together on issues such as women's rights where their preferences are stronger than the EU consensus.

The constraints of intergovernmental decision-making alone do not explain the findings. As is increasingly argued in the literature on EU performance in international institutions, the external context matters enormously (see Gutner and Thompson 2013; Oberthür and Groen 2015). In this case, the internal and external contexts have interacted in a way that inhibits EU activity. The Third Committee and HRC have traditionally been dominated by 'group politics', with formal regional and political groups opposing each other. In particular, the African Group and the EU tend to clash in the Third Committee, over numerous issues. There is only some of the cross-regional cooperation that is now seen in the Human Rights Council. The HRC was also polarised, and the EU was often pitted

against the Organisation of the Islamic Conference (OIC) and/or the African Group (see Gowan and Brantner, 2008; Gowan and Brantner 2010; Wouters and Meuwissen 2013, p. 5).

Despite the fact that reaching intergovernmental agreement on EU activity is challenging, in Geneva and in New York the EU is the most resourced group, able to stake out positions on virtually all of the topics under discussion (except where EU member states disagree). Some interviewees indicated that because the EU acts in such a unified way, other states are 'forced' to act in regional and political groups to try to protect and advance their own preferences. EU activity almost automatically sparks resistance by other states. Partly this is because EU positions once agreed are 'rigid' and difficult to change. Although it could be argued that a rigid EU position limits the 'win-set' possible in any negotiation, and therefore increases the EU's bargaining leverage (see, for example, Panke 2014: 1053), interviewees point out that this kind of strategy tends to backfire in the HRC and the UNGA: a strong EU position presented as non-negotiable generates resistance, and if the EU is opposed by larger groups such as the African Group or the OIC, it will lose in the 'numbers game', as it will be outvoted. EU member states have indeed often been outvoted in the Third Committee and the HRC (Smith 2010).

The EU has thus struggled to exercise influence in UN human rights bodies. In the past, when it has been unsuccessful in gathering support for its resolutions, it has generally dropped them (Smith 2010). Now, interviewees maintain that several member states are cautious and unwilling to pursue new resolutions that could face defeat.

At the Third Committee, there has been little change in both the number and topics of resolutions sponsored by the EU *and* EU member states. Non-EU states have sponsored some new resolutions, for example on human rights defenders, and only recently has there been some change in the topics of resolutions sponsored by EU member states (for example in 2015 on human rights of persons with disabilities, and safety of journalists). Interviewees indicated that EU member states do not wish to put forward resolutions that could fail, so they are not keen to upload new preferences to the EU level or pursue new resolutions outside the EU context.

At the Human Rights Council, the dynamics have changed, and this shows how fundamental the context is for understanding EU member state activity. The HRC context is changing largely due to the US , which in 2009 tried to break the 'EU versus the rest' dynamic on a proposed resolution on the freedom of opinion, by inviting one country from each region to join a 'core group'; this split the regional and political blocs. Since then, attempts to build cross-regional core groups have spread. Many are led by the 'moderates' or 'bridge-builders' in the groups, such as Botswana, Chile, Mexico, Jordan, and some EU member states, in particular Austria. The strategy appears to be working, in that cross-regional groups are perceived to be the most promising way to push forward initiatives, even though the context is still considered to be polarised (see yourHRC.org 2015).

EU member states have been active in cross-regional groups. They have concluded that the costs of working together as the EU in the HRC outweigh the benefits of working in cross-regional or other groups outside the EU framework. As one interviewee noted, initiatives taken in cross-regional groups are weaker than they would be if taken by the EU, as the EU is a group of like-minded states, and the cross-regional groups are not as homogenous. (A preference for Nordic Group over EU collaboration mirrors this on a smaller scale and shows a strong preference for principled stances by Nordic Group members.) But opposition to the EU obliterates that advantage: better to reach a weaker agreement that could be successful in the HRC than a stronger agreement that will be rejected. The overall effect is to reduce the scope for EU activity. As one interviewee put it, it is not helpful to work within the EU *first* on initiatives, though coordination within the EU could happen at a later stage.

So at the HRC, many of the EU's member states have decided that the way they can be most effective is to work outside the EU. A large majority of EU member states are 'balancing' their EU identity with a stronger assertion of national actorness in the HRC. In both the Third Committee and HRC, past policy failures and a fear of future failures have put a brake on Europeanisation (on the effects of such external stimuli, see Alecu de Flers and Müller 2012, p. 30).

Conclusions

The new institutions and decision-making procedures introduced by the Lisbon Treaty appear to have had a limited impact on the EU's activity in the UN's key intergovernmental human rights bodies, the General Assembly's Third Committee and the Human Rights Council. The level of EU activity has not changed much: the EU is issuing a steadily increasing number of statements in the Third Committee but about the same number in the HRC, and it sponsors the same number of resolutions on the same topics in both bodies. In the Third Committee, where the EU delegation has a stronger role than in the HRC, more member states are issuing more statements. At the HRC, there has been a significant increase in activity by member states acting outside the EU, on an individual basis or in cross-regional or other groups.

These findings contribute to the literature on Europeanisation in the field of EU foreign policy cooperation. Firstly, the process of Europeanisation does not always proceed clearly towards more convergence. What can be observed at the UN is not exactly a process of 'de-Europeanisation' (Hill and Wong 2011, p. 218) as the member states have not generally reduced EU activity or defected from existing EU positions. Instead it can be seen as a case of 'arrested Europeanisation'. Member states are clearly still keen to protect their autonomy and capacity to act on a national basis.

Second, the external context matters. The reasons why the member states are intent on acting outside the EU in the HRC are to be found both in dissatisfaction or frustration with 'internal' EU processes and institutions (too slow, too difficult to find agreement, and so on) and in awareness of the constraints and opportunities of the external UN context. Most member states want to influence debates and outcomes in the HRC, and thus they act outside the EU, because acting within the EU is ineffective due to the dynamics of group politics at the UN. Rather than using the EU as an 'institutional repository of the second-order normative concerns' (Hyde-Price 2008, p. 31), such as human rights, member states are acting individually to pursue their normative goals in the HRC. If there is more cross-regional coalition-building in the Third Committee in the future, then it is likely

that we will see EU member states acting more outside the EU context – despite the EU delegation's enhanced role there.

Third, the lessons of the external context are paradoxical for the EU. On the one hand, in an increasingly multipolar, interconnected world, size matters, and the EU member states would surely benefit from the 'politics of scale' (Ginsberg 1989) if they acted collectively. On the other hand, acting collectively in the microcosm of UN human rights bodies backfires precisely because the EU is not quite big enough (EU member states can easily be outvoted) and has struggled to gather enough supporters to win debates and outcomes. This tension between the imperatives of collective action in the wider international system and the imperative not to act as a bloc in the UN is likely to persist for some time and complicate any process of convergence on foreign policy issues.

Finally, the article contributes to our understanding of the impact that institutionalisation can have in an intergovernmental framework: member states still protect their capacity and freedom to act outside the EU, and they can 'box in' stronger central institutions so that they contribute to or take over policy-making only in prescribed areas. The member states agreed to create the institutions in the first place, but are clearly not keen to allow the institutions to take on much of 'a life of their own' – yet, at least. These findings do not bode well for the capacity of the EEAS or the High Representative to provide dynamic leadership in the future: without 'buy-in' by the member states (for example, through uploading preferences), the new institutions can do little but follow the paths already paved.

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