

Tamás Hoffmann: The Relationship between the European Union and the United Nations

1. Introduction

The United Nations (UN) is the only truly universal international organization – universal both in terms of membership, as all internationally recognized states are affiliated with it, and also universal in terms of activities, which cover all issues of international affairs. This organization, with its specialist agencies, funds and support programmes, is viewed as the international politics entity with the broadest legitimization to act upon the threats and problems occurring on the international plane. As aptly pointed out by Fassbender, since both the European Union (EU) and the UN are

“based on the same idea of ‘integration through law’ and, more fundamentally, the same belief in rational and enlightened human beings able to design and organize their societal life in a reasonable way, a failure of multilateralism on a global level would necessarily have repercussions on the European project. Intellectually and conceptually, the European Union and the United Nations are built on the same foundations. If this ground becomes shaky, both structures are in danger” (FASSBENDER 2004, 884).

Indeed, this interdependence seems to have been noticed by average Europe citizens as well, who tend to have more trust in the UN than in the European Union itself (BRANTNER-GOWAN 2009, 40).

Unsurprisingly, the Treaty on the European Union (TEU – Lisbon Treaty) is replete with confirmation of the fact that a close relationship between the European Union and the United Nations must be in the focus of European foreign policy. Most importantly, Article 21(1) of the TEU provides that:

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations

Charter and international law. The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

The EU's support for the UN has been repeatedly evinced in its foreign policy documents as well. The 2003 European Security Strategy was based on the idea of “an international order based on effective multilateralism”, which could be realized by “strengthening the United Nations, equipping it to fulfill its responsibilities and to act effectively” (*A Secure Europe* (2012), 9.; *The European Union and the United Nations* (2003)). Even though the concept of “effective multilateralism” has been recently substituted for “principled pragmatism” in the 2016 Global Strategy, even the new foreign policy manifesto of the European Union reaffirms the importance of the United Nations in the global order. The document emphasizes that:

“The EU will promote a rules-based global order with multilateralism as its key principle and the United Nations at its core. As a Union of medium-to-small sized countries, we have a shared European interest in facing the world together. Through our combined weight, we can promote agreed rules to contain power politics and contribute to a peaceful, fair and prosperous world. The Iranian nuclear agreement is a clear illustration of this fact. A multilateral order grounded in international law, including the principles of the UN Charter and the Universal Declaration of Human Rights, is the only guarantee for peace and security at home and abroad. A rules-based global order unlocks the full potential of a prosperous Union with open economies and deep global connections, and embeds democratic values within the international system.” (*Shared Vision, Common Action* (2016), 2)

It can be concluded that the foreign policy of the European Union is predicated on the assumption that the United Nations is the bedrock of the global system (BLAVOUKOS-BOURANTONIS 2017, 6). The EU is present in almost all major UN bodies, agencies, programmes and conferences. The Union is party to more than fifty international UN agreements and conventions as the only non-state participant. It has also been a full participant at certain UN summits, such as the Rio and Kyoto summits on climate change.

This chapter will first introduce the institutional aspects of this relationship, analyzing the representation of the European Union in the main UN organs, focusing on the General Assembly and the Security Council. Then it will zero in on the specific fields of cooperation between the European Union and the United Nations, with special regard to the maintenance of international peace and security.

2. Representation of the European Union in the United Nations

Article 4(1) of the UN Charter prescribes that “membership in the United Nations is open to all other peace-loving states”. This condition obviously limits the potential candidates to UN membership to states, thus excluding non-state entities such as the EU. Even though Article 47 of the Lisbon Treaty has eventually bestowed legal personality on the European Union, legal personality is not tantamount to statehood.

This does not, however, mean that the European Union cannot become a member of another international organization. Conditions of membership in an international organization is determined by the foundational document (usually Charter or Treaty) and depending on its provisions the Union might become a founding member of an international organization or might seek to join an already existing international organization. With respect to the first situation, the European Community became a founding member of the WTO in 1994.

However, as regards the second situation, many international organizations dating from before the establishment of the European Communities have no provision in their constitutions to accommodate other international organizations wishing to become members. The UN is perhaps the paradigmatic example. The only way for the European Union to join such an international organization would be to persuade the existing members to amend the constitution of the organization in order to enable other international organizations to become members. Should that be successful, the Union and the Member States can become members of the relevant international organizations alongside each other (KUIPER et al. 2013, 175).

An example of an organization subsequently amending its founding treaty to enable the accession of the European Communities is the Food and Agricultural Organization of the United Nations (FAO). The FAO admitted the then EEC as a “member organization”, alongside its Member States, by a decision of 26 November 1991, taken under Article II(3) and (5) FAO Constitution. As with the FAO, any international organization of which both the Union and the Member States are parties will have to determine whether both the Union and the Member States get voting rights and how these are to be exercised.

Since the EU cannot become a member of the UN itself, in a number of UN bodies the EU has no formal status at all, forcing it to rely entirely on representation through its member states. Article 220(1) of the Treaty on the Functioning of the European Union (TFEU) however, provides that the “Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies...”, thus clearly signaling the desire of the Union to create an institutional framework for representation.

The EEC have been working on strengthening the cooperation with the United Nations since the 1970s. The United Nations Working Party (better known by its acronym CONUN) was established by the Political Committee on 23 January 1975 (RASCH 2008, 175). Its mandate is to develop the European Union’s UN policy, with a focus on strengthening and reforming the UN system, and maintaining international peace and security. Other Council working parties have regional and thematic portfolios (CHANÉ-WOUTERS 2017, 550).

Coordination between the EU and the EU Member States is a complex process, from strategy development in Brussels, to the fine-tuning on the ground in New York, Geneva, Rome and other UN venues. In Brussels, the Commission and several working parties of the Council prepare the Union’s positions at the UN, depending on the subject matter and the forum. However, as it is demonstrated below, the lack of EU membership status in the main UN bodies lead to problems of representation. With full participation out of reach, in 2012 the then European Commission President Barroso and Vice-President Ashton proposed a more modest “Strategy for the Progressive Improvement of the EU Status in International Organisations and Other Fora in Line with the Objectives of the Treaty of Lisbon”. Though still calling for an “improvement of the EU status and its alignment with the objectives of the EU Treaties”, it avoided any reference to concrete negotiation goals. Ever since, the European Union is slowly trying to improve its position in each of the major UN organs without actually specifying the desired status it intends to achieve.

2.1 Representation of the European Union in the United Nations General Assembly (UNGA)

The General Assembly is one of the principal organs of the United Nations. All 193 member states of the Organization have a seat and a vote in the Assembly, which is the main representative, policymaking and deliberative organ of the United Nations and according to Article 10 of the UN Charter it has a general competence “to discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter”. Every member has the right to have five

representatives but has only a single vote. Among others, the UNGA passes resolutions related to economic affairs, development, security and disarmament, human rights and administrative and budgetary matters. While these resolutions are not legally binding, but are nevertheless important as they express the political views of the international community and may contribute to the development of international law.

In the UN General Assembly, EU foreign policy aspirations have become increasingly more ambitious. The Commission received observer status in 1974 and while the Maastricht Treaty only called on to coordinate member state policies through the EU, with the adoption of the Lisbon Treaty, the newly integrated EU delegation took over representation responsibilities, supported by a European diplomatic service, the European External Action Service (EEAS) (LAATIKAINEN 2015, 708).

Previously, the EU member state holding the presidency had been responsible for coordination and representation functions in the United Nations. The new regulation thus attempted to redefine the balance between member states and EU institutional actors in the UN context. However, in the United Nations EU member states are dispersed across three electoral groupings – the fifteen “old” member states belong to the Western Europe and Others Group (WEOG), the new member states to the Eastern Europe Group (EEG), except for Cyprus which belongs to the Asian Group. Member states that represent regional groups have prerogatives that observers, such as the EU (which inherited the Commission's observer status), do not possess.

In 2011, the UN General Assembly adopted Resolution A/65/276 upgrading the observer status to allow the EU to present common positions, make interventions, present proposals and circulate communications and participate in the general debate each September (United Nations General Assembly Resolution A/65/PV.88 of 3 May 2011). Since then, it is also the President of the European Council who delivers the EU statement in the General debate, and no longer the rotating Presidency, bringing EU representation in New York in line with Lisbon Treaty provisions. Besides the President of the European Council, other EU external representatives - the EU High Representative for Foreign Affairs and Security Policy, the European Commission and the EU delegation - can also present the positions of the EU and its member states at the UN. However, the representatives of the European Union still only have seating among the observers and do not have the right to vote, to co-sponsor draft resolutions or decisions, or to put forward candidates. Consequently, a Union representative can only take the floor when the representatives of all the countries belonging to the UN have already done so, which significantly reduces the direct influence of the EU.

This missing “actress” of the European integration organization before the 1990s often resulted in low voting cohesion among the members of the EEC, especially in politically contentious issues. For example, in 1979, the resolution on the ‘Assistance to the oppressed people of South Africa and their national liberation movement’ (United Nations General Assembly Resolution A/RES/34/93[I] of 12 December 1979) was passed in the UNGA with 134 ‘yes’ votes, three ‘no’ votes and seven abstentions. The three ‘no’ votes were cast by the US, France and the United Kingdom, and three of the seven abstentions were recorded by EU member states (Germany, Luxembourg and Belgium), while four EEC states voted with ‘yes’ (Ireland, Denmark, Netherlands and Italy) (BURMESTER-JANKOWSKI 2014, 1504). Moreover, the EEC’s voting cohesion decreased sharply when the US opposed a resolution during this period. However, in contrast to the 1970s, the disagreement variable is significant. However, on votes where the UNGA was evenly split, the EEC was likely to vote with almost perfect cohesion

According to Burmeister and Jankowski, the voting behaviour of the EU can still be regarded as rational. When a cohesive vote by the EU is unlikely to change the outcome of a resolution, the EU seems to put little effort in its co-ordination process. In such instances, member states can differ from the EU’s majority position. In other words, if a nearly unanimous vote is expected, EU member states are more likely to follow their specific national interest, even if this is in contrast to the majority position of the EU. This might be especially true for the major powers in the EU, namely France, Germany and the UK (BURMESTER-JANKOWSKI 2014, 1505).

To increase voting cohesion, the EU coordinates its voting within the General Assembly’s six main committees and other bodies and agencies such as the Economic and Social Council. To this end, more than 1300 internal EU coordination meetings are held at the UN in New York alone to develop a common EU stance and the ability to speak with one voice. Still, EU coordination only seems to be genuinely successful in case of less politicised UN resolution (PANKE 2014, 40). For instance, in the 64th session (2009/2010) of the UNGA, the EU failed to develop common voting positions on 23 of the 87 issues on which a vote was taken and was consequently not voting as one block 26.43% of the time. These issues included a resolution on global efforts for the total elimination of racism, a draft resolution on the dissemination of information on decolonisation, a draft resolution on the inadmissibility of certain practices that fuel racism, a draft resolution on the Syrian Golan, a draft resolution on the ‘Declaration of the Indian Ocean as a Zone of Peace’, a draft resolution on promotion of multilateralism in the area of disarmament and nonproliferation and a draft decision on adoption

of the outcome document of the Durban Review Conference as well as others (ibid. p. 30). Overall, it might be concluded that even though the European Union has made considerable progress in the last few decades in developing a common voice in the UN General Assembly, its lack of full membership prevents it from representing a single position in all cases.

2.2 Representation of the European Union in the United Nations Security Council (UNSC)

According to Article 23 of the UN Charter, the Security Council is composed of five permanent members – China, France, Great Britain, France and Russia - and ten non-permanent members, elected periodically for two years by the General Assembly pending the approval of their respective regional groupings. Under Article 24 of the UN Charter the Security Council has primary responsibility for the maintenance of international peace and security and can even pass resolutions binding on all member states. The permanent members of the Security Council have the right to veto any proposed resolutions so unsurprisingly the two EU permanent UNSC members, Great Britain and France, have fought hard to preserve the acknowledgement of their special status as enshrined in the EU treaties from Maastricht onwards.

Article 34(2) of the Lisbon Treaty signals that there is no EU coordination provision for the UNSC, merely the obligation to engage in consultations. It provides that:

“Member states which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.

When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those member states which sit on the Security Council shall request that the High Representative be invited to present the Union’s position.”

According to declarations 13 and 14 concerning the common foreign and security policy, added to the Treaty of Lisbon, even though EU member countries ought to undertake coordinated actions in the arena of the UN with reference to the common EU standpoint, in the event of a conflict of interest individual countries put priority on the obligations resulting directly from the terms of the United Nations Charter over the interest of the EU.

In the absence of a strong collective EU presence, special emphasis has been laid upon intra-EU coordination to ensure that EU member states that are also UNSC members raise EU views and positions. Still, information-sharing in the UNSC has lagged behind in comparison to the other UN main and subsidiary organs and coordination has remained problematic. Even

though ALREADY in Article J.9 of the Maastricht Treaty stipulated that “The Commission shall be fully associated with the work carried out in the common foreign and security policy field.”, little formal or informal coordination among member states on UNSC affairs was taking place in the 1990s. Despite sporadic attempts by some member states to enhance information exchange and repeated pressure on the two EU permanent UNSC members to improve coordination with the other EU partners, no regular coordination mechanism was formally established. Only recently, pragmatic arrangements have increased the flow of information, prospective coordination, and EU visibility in the UNSC in conformity with the Lisbon Treaty obligation of member states in the UNSC to keep the other EU member states and the High Representative fully informed (MARCHESI 2010, 101-103).

Consequently, the issue of coordination emerges as a key parameter of EU performance in the UNSC. Such coordination aims at fine-tuning the positions of EU member states and avoiding split votes in the UNSC decisionmaking process that would stress the intra-EU heterogeneity and thus distort the implicit or explicit projection of individual member states’ positions as those of the EU (BLAVOUKOS-BOURANTONIS 2011, 733). The gradual transformation of the duty of information into practice on UNSC affairs reflects broader concerns that the EU is not an actor *per se* in the UNSC, in contrast to other UN organs (Rasch 2008, 78-86).

This strategy seems to be successful in helping to establish an EU presence within the Security Council. The UNSC officially endorsed the relationship with the EU in 2014 when it adopted a presidential statement on cooperation between the EU (Statement by the President of the Security Council of 14 February 2014) and ever since holds annual meetings on strengthening the partnership with the EU, under its agenda item on cooperation between the UN and regional and subregional organisations. Moreover, EU representatives regularly deliver statements in the Security Council. Only in 2016, the EU delivered 32 statements in the UN Security Council.

2.3 Representation of the European Union in other United Nations organs

Full membership of the EU, such as in the Food and Agricultural Organization is still the exception. In most bodies, the EU holds observer status, for example in the Economic and Social Council (ECOSOC) and its subsidiary bodies, as well as in the UN Conference on Trade and Development (UNCTAD), which is a subsidiary body of the UN General Assembly. Finally, there remain a number of bodies within the UN framework, where the EU has no formal status, such as the World Bank, although its member states may be members.

Unlike the FAO, the ECOSOC is a body with limited membership. Its 54 members are elected by the UN General Assembly for a term of three years, taking into account geographical representation. To coordinate the membership bids of EU member states, the EU has developed a complex system which determines the election intervals for each EU member state. In 1983, the ECOSOC extended a standing invitation to the EEC, granting it the “right to participate, with the approval of the Council and without the right to vote, in the Council’s debates on questions of concern”. The EEC’s ad hoc participation, subject to invitation, was consequently turned into a permanent observer status.

In practice, however, the EU’s limited participation rights in most UN bodies still force it to rely on representation through the Member States, usually the one holding the Council Presidency. The EU’s external representation at the UN is, therefore, still spread on many shoulders. Depending on the subject-matter and on the level of the meeting, the EU will be represented by the Commission (in matters that do not fall under the Common Foreign and Security Policy (CFSP)), the President of the European Council and the High Representative (in CFSP matters) and/or the EU Delegation. The Member States continue to speak on their own behalf and will speak “on behalf of the EU” whenever the Union’s lack of participation rights so requires. If a matter falls within an area of both EU and national competence, the EU’s representative will be determined on the basis of whether the “thrust” of the issue falls under EU or national competence (CHANÉ-WOUTERS 2017, 551).

3. Fields of cooperation between the European Union and the United Nations

As seen above, the European Union is dedicated to a rules-based global order and that is predicated on a close cooperation with the United Nations. In Federica Mogherini’s words: “The European way is also the United Nations’ way. This explains why all our actions, all our initiatives are always taken in full coordination and partnership with the UN. We believe in the UN, because we believe in the same principles, in the same values, and our communities are built upon the same fundamental ideals” (High Representative / Vice-President Federica Mogherini at the UN Security Council 9 May 2017). But cooperation is not simply seen as a moral duty but also as a political necessity. As the EU Global Strategy for Foreign and Security Policy emphasizes: “Without global norms and the means to enforce them, peace and security, prosperity and democracy – our vital interests – are at risk. Guided by the values on which it is founded, the EU is committed to a global order based on international law, including the principles of the UN Charter” (*EU Global Strategy* (2016)).

This commitment to multilateralism within the framework of the UN system demands marshalling a wide range of instruments to realize a comprehensive approach that is “direct involvement in international negotiations, including mediation, on behalf of the international community; and... close work with international and regional partners, where only collective efforts can deliver results. A particular strength of the European Union is its ability to respond to a crisis with a wide range of tools and instruments — short- and long-term, humanitarian and development, security and political” (Baroness Catherine Ashton, SC, 13 February 2013).

The political aspect of the cooperation between European Union member countries within the UN, however, can cause ambiguities. As previously emphasized, the countries lead their own foreign policy, fulfil their own obligations resulting from the United Nations Charter, and thus are guided by the best realization of their own national interests. They are therefore not obliged to observe common arrangements concerning the Common Foreign and Security Policy (WILLA 2016, 341).

3.1 International Peace and Security

The utmost importance of the maintenance of international peace and security is repeatedly affirmed in the Lisbon Treaty as the Union to define its potential contribution as a player on the international stage (DASHWOOD 2008, 74). Art. 21(2) of the TEU provides that:

“The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

(c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter.”

Moreover, Declaration 13 added to the Lisbon Treaty on common foreign and security policy stresses that: “the European Union and its Member States will remain bound by the provisions of the Charter of the United Nations and, in particular, by the primary responsibility of the Security Council and of its Members for the maintenance of international peace and security.”

The EU has a wide range of tools available to prevent and solve crises in close cooperation with international and regional partners. For this reason, the High Representative provides regular updates to the Security Council and the EU is often invited to address issues of common concern, such as the fight against terrorism. Regular UN Security Council meetings on UN-EU cooperation in maintaining international peace and security are testimony to the importance both place on it.

3.1.1. Peacekeeping

Peacekeeping is one among a range of activities undertaken by the United Nations to maintain peace and security throughout the world, and the area is clearly aligned with some of the ambitions of the EU as an international actor. The UNSC establishes a peacekeeping operation by adopting a Security Council Resolution. The resolution sets out that mission's mandate and size. Once agreed upon, the Security Council also monitors the work of UN peacekeeping operations continuously, including through periodic reports from the Secretary-General and by holding dedicated Security Council sessions to discuss the work of specific operations.

While usually not directly involved in political decisions on establishing or terminating UN peacekeeping operations, the General Assembly (UNGA) plays a key role in the financing of peacekeeping missions. As all UN member states (have to) share the costs of UN-led peacekeeping operations, the UNGA apportions these expenses based on a special scale of assessment, taking the relative economic wealth of member states into account. Yet the permanent members of the Security Council are required to pay a larger share due to their special responsibility for the maintenance of international peace and security.

Given their shared values, strongly convergent objectives and the EU's stated interest in promoting "effective multilateralism", the European Union and the United Nations are often considered to be "natural partners" in global peacekeeping and the EU considers the UN a key entity responsible for undertaking actions in order to prevent international conflicts. Yet, the cooperation between the EU and the UN in this particular area only goes back two decades. The Franco-British Saint-Malo Summit (1998) and the 1999 European Council of Cologne not only initiated a shared European Security and Defence Policy, but also EU-UN cooperation in the area of peacekeeping missions and peacebuilding operations (HOSLI et al. 2017, 90).

At the 2000. EU summit in Nice, the EU acknowledged the necessity of a strong relationship with the UN that "allows Europeans to answer in an efficient and coherent manner to the requests of leading organisations such as the UN and the OSCE" and that the Council's Presidency had to "identify possible areas, as well as their modalities, of cooperation between the EU and the UN in crisis management" (European Council. (2001) Presidency Report on Strengthening CFSP). Later that year, the Gothenburg summit stipulated that the EU should "develop mutually reinforcing approaches to conflict prevention" and "ensure that the EU's evolving military and civilian capacities would provide real added value for UN crisis management" (European Council (2001) Presidency Conclusions to the Goteborg European Council on European Security and Defence Policy).

The EU eventually drafted two internal crisis management guidelines, determining the modalities and principles of peacekeeping cooperation with the UN and other international organisations. The Joint Declaration on UN–EU Cooperation in Crisis Management, adopted on 19 September 2003, emphasized the benefits of cooperation for both sides. It expressed a commitment to intensify common actions and established a special mechanism of bilateral consultations, aiming to facilitate planning, training and communication. This approach was further developed in the EU-UN Cooperation in Military Crisis Management Operations: Elements of Implementation of the EU–UN Joint Declaration, adopted by the EU Council on 17 June 2004 (General Secretariat of the European Council (2004)). This document outlined two possible models for performing EU operations according to the UN mandate. The “bridge model” applied to quick and brief EU interventions allowing the UN to gather more forces and resources, while the “readiness model” can be implemented in support for operations led directly by the UN (WILLA 2016, 344).

These documents have established basic principles for peacekeeping that have ever since remained the same. According to these the EU will at all times retain the political control and strategic direction of all of its operations, such cooperation will take place on a case-by-case basis only and will not necessarily participate in a peace support mission, even in case of specific request by the UN. Moreover, the EU does not constitute a pool of forces, but will only intervene by conducting specific missions or operations (HOSLI et al. 2017, 92).

While in the early 2000s the EU was often regarded as “just a regional peacekeeper” (MISSIROLI 2003, 493), by today European Union military and civil missions and operations have been conducted in three continents, not only in Europe but also in Africa, such as the EU Military Training Mission in Somalia (EUTM-Somalia) and the EU Border Assistance Mission in Libya (EUBAM), and in Asia, for instance the EU Co-ordinating Office for Palestinian Police Support (EUPOL COPPS) (EU Peacekeeping Operations 2017). These crisis management operations have a wide variety, such as police missions, rule of law missions, border assistance missions, monitoring missions and military missions. In sum, during the last two decades the European Union has successfully developed its peacekeeping capabilities and become a genuine partner of the UN in this field.

3.1.2. Implementation of UN Sanctions

Under Chapter VII. of the UN Charter, the Security Council has the competence to pass binding resolutions imposing sanctions on states, non-governmental organizations or even single individuals to protect international peace and security. The Charter specifies that these sanctions

are create obligations that take precedence over any other state obligations. Article 103 stipulates that: “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” In the jurisprudence of the European Court of Justice this obligation was originally interpreted as applicable in the EU context as well.

In the *Bosphorus* case, a Turkish company contested the execution of UN sanctions against Yugoslavia in EU law. *Bosphorus Airways* was a Turkish company operating principally as an air charterer and travel organizer that leased for a period of four years two aircraft owned by the Yugoslav national airline JAT. The agreement provided for the leasing of the aircraft only and excluded cabin and flight crew, who were provided by *Bosphorus Airways*. The latter company thus had complete control of the day-to-day management of the aircraft for that period. Yet, the leased aircraft was still confiscated by the Irish authorities in compliance with Council Regulation (EEC) 990/93 that implemented UNSC Resolution 820 (1993) (WENZEL 2008). In that context, the Court of Justice held that if an EU act intends to implement a UN obligation, the act ought to be interpreted in the light of the UN rule in question (Judgment in *Bosphorus Hava Yollari Turizm ve Ticaret AS v Minister for Transport, Energy and Communications and Others*).

This approach, however, was substantially changed following the implementation of the sanctions regime established by the UN Security Council Resolution 1267 (1999). This regime is directed against al-Qaeda and the Taliban, and associated individuals and entities, obliging all UN Member States to implement an asset freeze, travel ban, and arms embargo on them. It revolves around the function of a Sanctions Committee created to oversee the implementation of these sanctions. On the basis of information from the UN Member States the 1267 Sanctions Committee establishes and amends a list of persons related to al-Qaeda, on whom sanctions are to be imposed by the UN Member States. The Union adopted Common Position 2002/402/CFSP9 in accordance with Resolution 1267 and implemented it with Council Regulation (EC) No 881/2002. The centralized nature of the 1267 regime has raised issues within the EU with regard to the adequate protection of human rights of listed individuals (KUIJPER et al. 2013, 217-8).

This has been particularly illustrated by the *Kadi* case fore the EU Courts (DE BURCA 2010). The applicant, a Saudi Arabian national with substantial assets in the EU had been listed in the annex to an EC Regulation as a person suspected of supporting terrorism and in consequence all his funds and financial assets in the EU were frozen. Even though the Court of

First Instance decided that the regulation was in conformity with the Security Council's binding resolution, on appeal, the Court of Justice overturned the Court of First Instance's judgment. The Court took the view that the respect for the UN Charter does not reach so far as to affect the protection of fundamental rights within the EU legal order. Thus, the primacy of international agreements has one clear limitation: it does not extend to primary Union law, including general principles of EU law, and in particular fundamental rights based on the autonomy of the Community legal system (Judgment in *Kadi and Al Barakaat International Foundation v Council and Commission*). This reasoning was also reaffirmed in a second judgment (*Commission and Others v Kadi*).

Ultimately, the European Union still closely cooperates with the United Nations in the implementation of sanctions to maintain international peace and security. However, these sanctions cannot be implemented in the EU legal order if they are deemed to be incompatible with fundamental human rights norms.

4. Conclusion

The cooperation of the European Union and the United Nations is riddled with difficulties arising from often clashing national interests and the lack of adequate representation in many UN organs. As Hofmeister and Kuijper aptly remarked: "Painting a picture on the status of the European Union at the United Nations may not result in a beautiful Rembrandt with a golden undertone of good old State sovereignty. Rather an artist would possibly have to recourse to some abstract modern techniques, where colours are constantly changing" (HOFMEISTER-KUIJPER 2006, 34).

The impending exit of the United Kingdom from the European Union (Brexit) ironically might even forge a greater unity among the remaining EU member states which could result in an improved representation in the United Nations. Even though the UK is a permanent member in the Security Council and therefore a major influence within the UN, in the past it had repeatedly obstructed unified EU representation within the United Nations. In 2011, for instance, it blocked the issuing of more than 70 EU statements since it did not agree that the EU could automatically speak on behalf of the member states in certain issues such as finance, economics, disarmament, terrorism and human rights (BORGER 2011).

Nevertheless, despite all the current uncertainties, the EU will continue to be a dedicated supporter of the United Nations. In Federica Mogherini's words: "The European vision is the United Nations vision" (Federica Mogherini, SC/12814, 9 May 2017). Both organizations share a belief that a rules-based global order where states are closely cooperating to maintain

international peace and security presents the only viable future for humankind. Consequently, it might be expected that the cooperation of the two organizations will continue to flourish and deepen.

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