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## The European External Action Service

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This Policy Paper is the second in a series that will be produced by the Jean Monnet Multilateral Research Network on 'The Diplomatic System of the European Union'. The network is centred on three partner institutions: Loughborough University (UK), Katholieke Universiteit Leuven (BE) and Maastricht University (NL). It also brings together colleagues from a wide range of academic institutions within the EU, and includes participants from EU institutions and non-governmental organisations. The aim of the Policy Papers series is to contribute to current debates about the emerging EU system of diplomacy and to identify the key challenges to which the EU's diplomatic system will need to respond in the short and medium term.

## The European External Action Service

### Overview

The European Parliament recently lent its support to the draft Council decision to establish the European External Action Service (EEAS). While this is seen as a positive development, the draft also leaves a number of significant questions in the air which may yet complicate the way in which the Service works in practice. Some of the issues raised, such as recruitment to the EEAS or the issue of deputization for the High Representative, will become important bellwethers of the extent to which the EEAS will overcome the lack of coherence, efficiency and visibility that beset pre-Lisbon Treaty external relations. This paper highlights a few of what seem to be the most salient issues and they include: who can deputize for the High Representative and under what conditions; the extent to which the EEAS can be functionally autonomous; the issue of allegiance to the Service and, linked to this, recruitment; and the broader question of the general purpose and direction of the EEAS. There are many important questions relating to the 136 EU delegations and the EEAS but these are not addressed below since this will be the subject of a forthcoming DSEU Policy Paper.

### A difficult birth

On 8 July 2010 the European Parliament voted through a legislative resolution, by a convincing majority (549 in favour and 78 against), on the draft Council decision to establish the European External Action Service (EEAS). This removed one of the last significant hurdles to the creation of the EEAS. Although the organisation and functioning of the EEAS are only subject to parliamentary consultation, it was nevertheless clear in discussions on a previous draft of 25 March that the critical amendments to the staff and financial regulations would not be made if the views of the MEPs were not taken into consideration. The result was the political agreement reached in a quadrilogue<sup>1</sup> meeting on 21 June 2010 and subsequently approved by the European parliament.

Due to the nature of compromise, there were no clear winners among the vying EU institutions and a number of significant questions are left unanswered. A compromise, especially on such a contentious subject, is though a positive development and, for those outside Brussels, it will hopefully represent an end to a lengthy period of navel-gazing. Although the hard bargaining is over, there are still a number of additional hurdles to cross. The draft Council decision has to be formally adopted and the critical accompanying texts (like the financial and staff regulations and the budgets for 2010 and 2011) will have to be amended. Assuming all goes as planned, the EEAS is due to emerge as an entity in December and by 1 January 2011 the requisite staff should have been transferred for it to start operating.

### Assisting the High Representative

The EEAS falls under the authority of the High Representative/Vice President (HR/VP), Catherine Ashton. According to the Lisbon Treaty the main mandate of the EEAS is to 'assist the High Representative' in fulfilling her mandate. The draft Council decision of 21 June 2010 contains significant vagaries which, if not addressed, risk replicating existing inter-institutional

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<sup>1</sup> The Presidency of the Council of the EU (Foreign Minister Miguel Moratinos and Secretary of State Lopez Garrido), the High Representative (Catherine Ashton), the Commission (Maroš Šefčovič) and the European Parliament representatives (MEPs Brok, Verhofstadt and Gualtieri).

frictions. Article 2 of the draft decision states that the EEAS will support the High Representative:

... In her capacity of President of the Foreign Affairs Council, *without prejudice to the normal tasks of the General Secretariat of the Council.*

... In her capacity as Vice-President of the Commission for fulfilling within the Commission the responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action, *without prejudice to the normal task of the Commission.*<sup>2</sup>

The key expression, 'normal tasks', may be subject to variable interpretation especially since the very idea of normalcy has shifted dramatically in EU external relations with the introduction of the Lisbon Treaty and, in particular, the EEAS.

Although the Treaty refers specifically to the EEAS' support role for the HR, the support role of the Service has been extended to the President of the European Council, Herman van Rompuy, and the President of the Commission, José Manuel Barroso, as well as to the Commission. Although there is logic to this a coherence perspective, the exact way in which the EEAS will coordinate and satisfy all of these potential demands for support is unclear.

Much of the early debate surrounding the HR/VP's position concerned the extent to which deputization was possible, especially when considering the almost superhuman demands of the job position as laid down in the treaty. The initial draft of the Council's decision featured prominent role for an executive Secretary-General who would have been one of the obvious candidates for deputizing roles. The presence of two deputy Secretaries-General, the chair of the Political and Security Committee, four directors-general, or even Special Envoys appointed by the HR/VP, appeared to have potential in this regard at their appropriate levels. The European Parliament reacted negatively to the idea of dealing with a high-level administrator and therefore prevailed in its desire to deal with the Commissioners for Development, Andris Piebalgs, the Commissioner for International Cooperation, Humanitarian Aid and Crisis Response, Kristalina Georgieva, and the Commissioner for Enlargement and the European Neighbourhood Policy, Štefan Füle, in their role as deputies of the HR/VP. On matters pertaining to the Common Foreign and Security Policy (CFSP), the foreign minister of the Member State holding the rotating Presidency will deputize (thus, partially, resuscitating the role of foreign ministers in post-Lisbon external relations). Thus, in principle the double-hatted role of the HR/VP (or triple, if her chairing role of the Foreign Affairs Council is included) cannot be delegated and those delegating will have to do so in either a Commission or a CFSP capacity. This would appear to undermine the very logic of dual-hatting and leave open the potential for competence disputes within the EEAS with the potential to drag in the HR/VP herself.

### **The functionally autonomous body**

In 2005 the High Representative, Javier Solana, and Barroso (in a previous term) described the EEAS as *sui generis*. Although intended at the time to avoid the impression that the Service was an institution and to leave sufficient ambiguity regarding where it fitted into the existing EU structures, the term also left many unanswered questions. Five years later it has become 'a functionally autonomous body of the European Union, separate from the Commission and the General Secretariat of the Council, with the legal capacity necessary to perform its tasks and attain its objectives'. The actual degree of autonomy will only be determined in practice, but there are already legitimate questions in this context – as has already been noted above.

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<sup>2</sup> Emphasis added by author.

In the interim between the European Parliament's rejection of Ashton's initial draft of the proposal for a Council decision and the conclusion of the quadrilogue, the European Parliament succeeded in strengthening the role of the Commission in some regards, whilst failing in their overall goal of making the Service administratively part of the Commission. In several areas where the EEAS contributes to the programming and management cycle for a number of external financial instruments, any changes in the basic regulations or the programming documents shall be prepared jointly by the EEAS and the Commission under the *responsibility* of the relevant Commissioner (the earlier draft merely said supervision and guidance) and then jointly submitted with the HR/VP to the Commission for decision. Bearing in mind the sizeable amounts involved, the question of how any potential disagreements might be resolved between the HR/VP, under whose authority the Service falls, and the responsible Commissioner, is open. In this event, it would presumably be a decision of the College of Commissioners, of which the HR/VP is a member.

A number of specialised Common Security and Defence Policy (CSDP) bodies, addressing various aspects of EU crisis management, also retain a degree of autonomy, in spite of efforts at close integration with the Service on the part of the European Parliament. The Crisis Management and Planning Directorate (CMPD), the Civilian Planning and Conduct Capability (CPCC) and the EU Military Staff, are nominally part of the EEAS but with 'full account of the specificities of these structures and preserving their particular functions, procedures and staffing conditions'. These bodies, as well as the Joint Situation Centre (SitCen), fall under the direct authority and responsibility of the High Representative. Although there are sound security concerns that may justify the arms length proximity of the crisis management structures to the EEAS, the question of how the EU will move towards comprehensive security whereby other facets such as conflict prevention, peacebuilding, Security Sector Reform or Disarmament, Demobilisation and Reintegration (falling primarily under the Commission) will have to be determined by the HR/VP.

### **Pledges of allegiance**

The third important constituent of the Service, the temporarily assigned diplomats from the Member States, also raise important questions about the autonomy of the Service. Aside from the quibble about how a service, and not a decision-making body, can be autonomous, the potential role of the national diplomats is ambiguous. The draft Council decision is clear that staff members of the EEAS 'shall carry out their duties and conduct themselves solely with the interests of the Union in mind' and that they 'shall neither seek or take instructions from any Government, authority, organisation or person outside the EEAS or any body or person other than the High Representative'. The original concept for the Service envisaged the possibility of engaging permanent staff from the Member States, whereas the period of service is now limited to eight years (two periods of four years) and, in exceptional circumstances, an extension of two years. This raises the fundamental, if awkward, question of where the *loyalties* of the national diplomats will lie. Four years may be too short for the national diplomats to really invest in the Service let alone master the labyrinthine ways of the EU, while eight years may be too much of an investment for the Member State of scarce human capital (with the associated danger of 'going native' or socialisation away from national diplomatic service). Alternatively, for those Member States facing cuts in their overseas budgets, the EEAS should not become a dumping ground for the less-able or pre-retirement foreign officers.

The question of who the Member States will send, and at what levels, will depend very much upon national priorities and perspectives on the EEAS. The situation prior to the actual recruitment of national diplomats on temporary assignment suggests two poles. At one extreme are the sentiments expressed in Declarations 13-14 attached to the Final Act of the

Lisbon Treaty, whereby the provisions of the treaty concerning the CFSP, including the creation of the office of the HR/VP and establishment of the EEAS 'do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organisations'.

The United Kingdom-inspired draft suggests two possibilities. First, the EEAS will do little to change and may even reinforce the intergovernmental character of CFSP and CSDP. Any perceived gains in Commission influence in other areas of foreign policy may be counter-balanced by greater Member State direction of foreign and security policy. The second possible outcome is that there may be a tendency to see the EEAS (as well as the Union delegations) as primarily a way of promoting national interests. In this context the EU members would gravitate towards those geographic desks or key positions in the EU delegations that promote their own national objectives, to the exclusion of those that are seen as peripheral. This may not only take the form of obvious preoccupations (like Spain with Latin America, Portugal and Italy with the Mediterranean, Belgium with central Africa or the Baltic States with Russia) but also more subtle calculations, especially for the smaller members, about the potential national prestige attached to heading a key Union delegation, versus the status attached to the national representation in a given third country.

The other pole, whereby national diplomats in effect create a new European level of diplomacy which is an adjunct to traditional (Westphalian) notions of diplomacy, would require a fundamentally different approach to the EEAS. This is something that the Member States have in fact done *implicitly*, by agreeing that they are stronger with twenty-seven unified voices, but tend to forget in practice. It will also require more accommodation for the EU generally on the part of the Member States in international organisations which, with a few exceptions, were created by and for states and not, as Jacques Delors put it, 'unidentified political objects' like the EU.

### **A meritorious service**

The intention is to recruit on the basis of 'merit whilst ensuring adequate geographical and gender balance'. The smaller and newer EU members have a legitimate gripe when they claim that they are under-represented in the current EU external relations structures, as do women. Care has to be taken though not to ignore 'merit' in favour of the types of complex glass ceilings and walls that currently exist in the higher levels of the Commission. The top ten EEAS jobs will inevitably be subject to political jockeying, but the way in which the eighty or so appointments are made to reinforce the key strategic Union delegations will be a critical test of whether the Service really will be merit-based.

The value of the EEAS as a service or resource for other EU institutions will depend very much upon the quality of the staff recruited, including those on temporary assignment from the Member States. The quality will be influenced both by the preparation for the Service and the calibre of those recruited. On the first point there is no common training in place for the Service staff, although mention is made in the draft Council decision of the need to 'provide EEAS staff with adequate common training, building in particular on existing national and EU practices and structures'. The national diplomats will have honed their diplomatic skills, but will know little about how the EU actually works, while their EU counterparts, who may have valuable experience, will nevertheless lack much of the preparation required to assume various diplomatic roles. The absence of such a common training will affect not only the skills and analytical levels of the staff, but the chance to create an essential *esprit de corps* will also have been lost.

### **But what does it actually do?**

The draft decision of 21 June 2010 mentions, almost in passing, that a 'strategic policy planning department' shall be created, along with others, to ensure full coordination between the structures of the EEAS. Such a department is of critical importance given the overall lack of vision or strategy of the EU in its external relations. This is far from an academic exercise since any such strategy will be critical to the EEAS, especially if fundamental decisions on programming are to be made on the basis of policy objectives related to financial instruments. Although it would be an exaggeration to suggest that the EU completely lacks strategy (indeed, it could be argued that the Union is drowning in strategies and strategic partners), there is no sense of prioritisation in terms of key challenges, regions, countries or issues. Such an overarching strategic vision would do much to give the EEAS a sense of direction. With this in mind the President of the European Council, van Rompuy, has called for a summit with the heads of state and government in September 2010 to focus their attention on the EU's role in the world. Now that the institutional tinkering is, for the most part over, it is high time to give the EEAS direction and purpose. This is precisely what those outside Brussels, who have little interest in the arrangement of European deckchairs, have been waiting for.

### **Key recommendations**

The discussion above leads to five key recommendations:

- Work should continue in the quadrilogue format, to iron out and clarify the points above, especially those that are likely to lead to obvious friction and wrangling within the constituent parts of the Service;
- Review the terms of service for temporarily assigned diplomats so that longer term career prospects in the EEAS are a possibility, not as an alternative to national diplomatic service but as a European stream of complementary service;
- Further consideration needs to be given to the staffing of the EEAS, especially to recruitment on the basis of merit above all. The aim of the Service must be to attract the best, particularly from the Member States. Any hints of glass ceilings or informal quotas will be counter-productive;
- A training concept should be made a matter of priority. Such a concept should include not only induction-related programmes but concepts for continuous training as an essential underpinning of the Service's *esprit de corps*;
- The EEAS should be given a greater sense of direction and purpose through the adoption of a clear set of strategic priorities at the highest levels of the EU.

The Diplomatic System of the EU Network, funded by the European Commission's Jean Monnet Project, brings together three partner universities with a strong tradition in the study of European integration in its international context. The lead partner is Loughborough University, and specifically its Department of Politics, History and International Relations and Centre for the Study of International Governance. The other partners are Katholieke Universiteit Leuven, from Belgium, and Maastricht University, from the Netherlands. Each partner is responsible for key events and a research strand. In addition selected experts drawn from EU and Member State institutions and from relevant sections of civil society will be invited to participate in selected network activities.

Nothing in this paper should be construed as representing the views of any EU or national institution, including those represented in the network itself. For further information about the network and its activities, please visit <http://dseu.lboro.ac.uk>