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**Research Report**

## Empowering EU diplomacy: The European External Action Service as an opportunity for EU foreign policy

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## Empowering EU Diplomacy

The European External Action Service as an opportunity for EU foreign policy

*Julia Lieb / Martin Kremer*

The weeks ahead will determine how an important new entity established under the Treaty of Lisbon—the European External Action Service (EEAS)—will take shape. The negotiations on a number of complex and politically sensitive organizational decisions regarding the status of the EEAS, its areas of authority, the role of the Member States in staffing decisions, and other issues are pressed for time and accompanied by intensive bargaining and infighting between the Member States and the institutions of the EU. The EEAS is not intended to become Europe’s 28<sup>th</sup> diplomatic service or a pawn of special interest groups in the various institutions; rather, it is to ensure the coherence and effectiveness of the EU’s external activities. The strategic development of this new entity should therefore be guided and supported by a group outside European Council structures.

When the Treaty of Lisbon entered into effect, Lady Catherine Ashton was appointed the High Representative of the European Union for Foreign Affairs and Security Policy. She plays a central role in setting up the European External Action Service (EEAS) as envisaged in the Treaty, and will also head this new institution.

The new post of High Representative merges the former EU High Representative for Common Foreign and Security Policy (CFSP) with the European Commissioner for External Relations. However, no new foreign policy competences have been transferred to the European level. The merging of two formerly divided elements of European foreign policy into a so-called “double hat” could give rise to synergy

effects. Up to now, the EU has not always entered the international arena with a unified voice. This was due to the assortment of different measures under the CFSP and the foreign policy measures of the European Community.

Article 27 (3) EUT (Lisbon) states only that the High Representative should be supported in her activities by an EEAS, which is to comprise “officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States.” High Representative Ashton now has to draft a proposal for a Council decision on establishing the EEAS. According to the European Council, the proposal should be made

as soon as possible with a view to its unanimous adoption by the Council at the latest by the end of April 2010—after consulting the European Parliament (EP) and obtaining the consent of the Commission. Given the differing interests of the Member States and institutions of the EU, reaching agreement on parameters for the concrete structure of the EEAS is difficult. This has already become evident in the 2004/2005 negotiation rounds following the signing of the Constitutional Treaty and in early 2008 under the Slovenian Council Presidency, which only resulted in a minimum consensus (see *SWP Comment 36/2004* and *13/2008*). The EEAS project was long kept on hold while awaiting the second Irish referendum. After the 2009 summer break, however, negotiations commenced again with increased vigor.

### **Current status of preparatory work**

On October 30, 2009, the Council approved guidelines for the organization and operation of the EEAS. They were an important interim step in negotiations between the Member States and institutions of the EU. Since then, discussions have been proceeding within the Council, the Commission, and the EP as well as within a High Level Group established by Catherine Ashton. This group comprises representatives from the aforementioned institutions and the Member States and is intended to deal with all aspects of EEAS creation. Its influence is unclear and partly contested.

Moreover, several controversial points that are key to the success of the EEAS still remain to be resolved at EU level and are meanwhile generating rumours. These points include the future legal status, competencies, and operation of the EEAS as well as staffing issues. In this context, Member States, Commission, and EP are struggling for influence, leadership, and representation in the new diplomatic structures, while the Commission is capitalizing on its structural advantage of location (e.g., delegations abroad) or competencies

(e.g., staff regulations). All of this may be understandable given the actors' involvement in the EEAS, but too little thought has gone into developing appropriate procedures and an overall strategy for shaping and structuring the new service.

### **Legal status**

According to the Council, the EEAS should be a service of a *sui generis* nature, separate from the Commission and the Council Secretariat. In the meantime, the Commission has accepted this compromise, but not the EP, whose confidence in its own power has increased through the Treaty of Lisbon. In its resolution of October 22, 2009, drafted by German European Parliament Member Elmar Brok, the EP reiterated again that the EEAS to “must be incorporated into the Commission’s administrative structure” as far as budgetary and organizational issues are concerned. Several smaller Member States sympathized with the EP’s position, since strong community structures could possibly overpower their own relatively weak diplomatic services. Their positions run counter to that of the larger Member States, which are primarily interested in more effective coordination of national foreign policies.

In the meantime, the Council’s compromises are accepted by and large. As to the oversight and financing of the EEAS, however, concessions will have to be made to the EP. This will be true of areas in which the EEAS will have budgetary authority over its own staffing and administration costs, or if the EP is to be granted rights in these areas. Any concessions to the EP must be seen in the context of the means at its disposal to exert pressure, for example, in the EU budgetary procedure, or in the hearing procedures for a Council decision on the EEAS. The recent inclusion of an EP representative in the High Level Group points to an increasing sensitivity to the Parliament’s role.

### **Scope and functioning**

According to the Council's guidelines, the geographical and thematic departments of the Commission and Council are to be integrated into the EEAS. Enlargement, together with trade and development policy, will remain the primary responsibility of the current Commission. European Commission President Barroso—to maintain his own power—distributed responsibilities among the new Commissioners in such a way that the Commissioner for EU Expansion is to be in charge of European Neighborhood Policy (ENP). The Commission would thus maintain control of the ENP funds. Even if some understanding may have been reached as regards the division of labor among the persons in office, the High Representative risks losing an important policy field and considerable financial resources. It would also prevent the EU from speaking with a unified voice in key areas of foreign policy.

The principle of coherence also needs to be taken into account with regard to the "programming and implementation of financial instruments." It therefore makes sense for the High Representative to hold responsibility for all major financial instruments within the broad scope of foreign policy authority vested in her (and to involve the responsible Commissioners). This will be important, for example, in the area of development cooperation.

A more coherent approach of the EU on the international stage will also be achieved through the almost complete integration of the political and military structures of the Common Security and Defence Policy (CSDP) into the EEAS, as stipulated in the Council guidelines. But since the CSDP was not brought within the Community framework under the Treaty of Lisbon, targeted efforts will have to be made to involve the Member States since only they have the needed expertise.

An indispensable condition for a functional and effective EEAS will be to ensure consistent lines of authority and reporting, as well as to guarantee access to informa-

tion, especially since the aforementioned areas remain the Commission's responsibility. Previous experience with "double hatted" structures shows that the establishment of an external service will have to be accompanied by a pivotal coordination and reference point for information and directives.

### **Staffing issues**

Staffing issues are a central area for the future work of the EEAS and the integration of its work with that of the national diplomatic services. The numbers under discussion for EEAS staff are on the order of 5,000 to 7,000 employees.

According to the Council guidelines, at least one third of the positions in the EEAS should be given to "temporary civil servants" from the Member States, and two thirds to personnel on secondment from the Commission and Council Secretariat. It is therefore counter-productive if the Commission makes higher staffing decisions that are related to the future EEAS and that have already created resentments at the national level. At the same time, the opening up of available positions in the existing delegations to personnel from the Member States should be maintained.

If personnel from different institutional backgrounds are to be granted the same rights and duties, staff regulations will have to be modified and general support measures will have to be provided to those staff members that are posted to the EEAS. As regards recruitment of EEAS staff, it will be difficult to guarantee both quality and regional balance (for example, between the new and old Member States). In order to create a feeling of diplomatic esprit de corps within the EEAS (which works according to the principle of rotation), appropriate training measures will have to be offered.

### **Procedures for developing and expanding the EEAS**

According to the Council guidelines, the development of the EEAS will take place in three roughly defined stages: the first, up to the adoption of the Council Decision at the end of April 2010; the second, up to the commencement of regular services in 2012; and the third, up to the evaluation of the service's work and organization in 2014. It still remains to be seen how this development process will unfold in detail, what criteria will be used in EEAS progress reports in 2012 and 2014, and what consequences the resulting evaluations will have.

These will be the crucial questions when it comes to defining the role of the EEAS in Council bodies and transforming the approximately 130 Commission delegations worldwide, a process that is set to begin soon. Since December 1, 2009, these delegations are considered "delegations of the European Union" and comprise part of the future EEAS structures.

### **Resolving disputes**

The development of the EEAS opens up opportunities to make the external actions of the EU more coherent and effective. But it does not offer any guarantees. Since the Member States differ in some cases substantially in their preferences for EU foreign relations, differences of opinion will probably emerge as soon as the European and national diplomatic structures begin to be adapted to one another. Furthermore, under the Lisbon Treaty a number of different actors take roles on the foreign policy stage: alongside the High Representative and Member States (with the new possibility for structured cooperation) there will also be the President of the European Council and a strong Commission, who still need to sort out their new institutional roles.

### **The need for a development plan**

A strategic development plan for the entire reform process is needed to put the EEAS on the right track from the outset. This plan could become part of the Council Decision on the service in late April 2010—which, due to time pressure, will most likely remain general in nature—defining clear criteria for success that could be used as benchmarks the service's development. These criteria should include its performance within the complex of EU institutions involved in foreign relations, and its acceptance by the actors and institutions affected. At the same time, this would provide the opportunity for early discussion on future perspectives of the EEAS, for example, a potential role in consular affairs as a supplementary service to the Member States.

### **Strategic steering group**

In addition to drafting a development plan, steps should be taken towards regular, even short- and medium-term evaluation and adaptation of EEAS structures and procedures. This process could be led by the High Level Group for the EEAS. This body should, under the High Representative's leadership and to a much stronger degree, operate as an informal group outside the usual Council and Commission structures. It could also be expanded to include more qualified experts. The group should function as an independent consulting service, focusing on the long-term perspectives of the EEAS without heed to the special interests of the various institutions, and contributing to evaluation reports.

If the EU wants to seize the opportunity to start afresh with the EEAS, the steering group should also push to achieve a strategic agreement within the EU. This may require the foreign ministers to meet informally more frequently than their usual semi-annual "Gymnich" meetings. Discussions will need to focus on addressing the goals and priorities of the EU as a global actor in greater depth.

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