

The European External Action Service: a Critical Step for a Single European Voice in External Relations?

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Abstract: *The need for the EU to speak with one voice by ensuring coherence between the aspects of EU external action and external aspects of internal policies in order to maximise the coherence, consistency, efficiency, visibility of EU external action on the global stage compelled institutional arrangements in the Lisbon Treaty. The Lisbon Treaty reorganised the powers in the external field by extending the powers, tasks and function of the High Representative of the Union for Foreign Affairs and Security Policy. The European External Action Service was created as a functionally autonomous body under the authority of the High Representative in 2010 to support and assist her/him in fulfilling her/his mandate relating to her/his triple-hatted tasks. This article examines in the light of the post of the High Representative, the true nature of the EEAS, its creation with underlying grounds, its tasks, composition, powers and function in the external foreign policy and its relationship with the institutions.*

Keywords The European External Action Service, Common Foreign and Security Policy, High Representative, Diplomacy, Institutional Cooperation

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Introduction

The European External Action service (the EEAS) could be defined as the diplomatic service of the EU or informally as its Ministry of Foreign Affairs. It is a functionally autonomous body of the European Union (the EU) under the authority of the High Representative of the Union for Foreign Affairs and Security Policy (The High Representative) created to assist and support the High Representative. It is as a nascent body still in its toddler years.

At the turn of the century, the EU remained short of becoming a potent international actor on the global stage commensurate with its economic strength. Although for a while member states have been keen on furthering European integration in economic matters. Yet, they have not been so willing to further integration in the field of foreign policy, namely in areas of high politics due to sovereignty concerns. They were caught on the horns of a dilemma in determining whether the EU is shaped to become a dwarf compared to its economic power or arrangements are made to provide it with a common foreign policy spoken with one voice at the EU level. The second possibility could not have been attained without any diplomatic assistance carried out by the officials and diplomats who would be loyal to the EU and who would have the European interest in mind. However such an organisation also gave rise to concerns about whether this type of construction, as being indeed its foreign ministry, would lead the EU to become a super state.

Hence, the primary objective of this study is set to examine that possibility as well as question whether the EEAS in fact is the ministry (of the super state) of the EU with true supranational connotations. In that respect, it emphasises its characteristic of being a platform to an inter-institutional (horizontal with vertical implications) and vertical struggle, interaction, interpenetration and cross-fertilisation. This study also discusses whether the objectives of the High Representative and the EEAS articulated by the Lisbon Treaty have been attained in practice and draws attention to some of their characteristics including their strengths and weaknesses. It is argued that the EEAS may not be comprehensively understood without the grasp of the post of the High Representative with her/his triple-hatted tasks, objectives, powers and weaknesses. It should also be borne in mind that since it has been created to assist and support the High Representative, the power, functionality and success of the EEAS will be closely tied to that of the High Representative, as the strength of the EEAS would also partly determine the success of the latter. How common the CFSP with a more supranational or intergovernmental characteristic will be in the end is to be determined by the success of the High Representative and the EEAS.

In an attempt to examine the overall structure of the EEAS and discuss its common characteristics including horizontal and vertical inferences appearing in practice since its inception in the last three years, the first part of this study is reserved for an analysis of the post of the High Representative. The utility of such an attempt is to provide a framework for a better understanding of the EEAS. In the second part the creation of the EEAS is discussed with the underlying grounds leading up to its realization. Thirdly its tasks, composition and structure are explored in order to give a clear clue about its true structure. Fourthly, its relationship with the rest of the EU institutions are investigated in an attempt to emphasise its functions within the general construction of the EU and external action of the EU. In the final section some conclusions are set forth.

The High Representative of the Union for Foreign Affairs and Security Policy

Since the EEAS shall assist and support, and also being subject to, the High Representative in fulfilling her/his mandate to conduct the Common Foreign and Security Policy (the CFSP) and to ensure the consistency of the Union's external action, it is required to examine the position of the High Representative first in order to better understand the EEAS. The function, powers and tasks of the EEAS thus would be better configured under the framework of the post of the High Representative.

The Amsterdam Treaty created the post of the High Representative. Under Article 18 of the Amsterdam Treaty, the High Representative, who was also the Secretary-General of the

Council, shall assist the rotating Presidency, who represents the Union in matters coming within the CFSP. Under Article 26 of the Amsterdam Treaty, the High Representative shall also assist the Council in matters coming within the scope of the CFSP, in particular through contributing to the formulation, preparation and implementation of policy decisions, and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third parties.

In the Constitutional Treaty the post of the High representative was formulated as the Union Minister for Foreign Affairs. Due to sovereignty concerns of the member states arising from the super-state connotations of the EU, the Lisbon Treaty preferred to set up the post under the title of the High Representative. This new structure accordingly confirms that the CFSP was set up under the Lisbon Treaty with the intention not to replace foreign policies of the member states. In order to emphasise that in the Declaration (14.) concerning the CFSP, the member states laid down the provisions covering the CFSP including in relation to the High Representative and the EEAS “will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State's membership of the Security Council of the United Nations.”

The Lisbon Treaty constructs foreign policy not by transferring new powers or responsibilities to the EU level, but by principally reorganising the existing structure. In the Lisbon Treaty, the CFSP is incorporated into the general framework of Union's External Action to be conducted under the common objectives and principles. The Lisbon Treaty reorganised the CFSP by drawing together intergovernmental and supranational structures and with their different procedures and modes of decision-making.¹ It thus provides more coherence, consistency and unity in the external relations of the EU. Although the pillar structure is removed by the Lisbon Treaty, in the area of the CFSP intergovernmentalism and so survival of pillarisation in some way have been maintained with its special structure, procedure and decision-making.

In this construction, under Article 18 Treaty on the European Union (TEU), the European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative, who shall conduct the Union's CFSP, contribute by her/his proposals to the development of that policy, which she/he shall carry out as mandated by the Council. As also being one of the Vice-Presidents of the Commission, she/he shall ensure the consistency of the Union's external action and shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, she/he shall be bound, in accordance with the principle of collegiality, by Commission procedures to the extent that this is consistent with her/his responsibilities relating to the CFSP and Foreign Affairs Council.

Under Article 26 TEU, the European Council shall identify the Union's strategic interests, determine the objectives of and define general guidelines for the CFSP, including for matters with defence implications and adopt the necessary decisions. The Council shall frame the CFSP and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council. Within that framework, under Article 26 TEU her/his main objective is set out as to ensure, with the Council, the unity, consistency and effectiveness of action by the Union. As well as the member states, she/he shall put into effect the CFSP. According to Article 21(3) TEU, within the framework that the Union shall ensure consistency between the different areas of its external action and between these and its other policies, the High Representative shall assist the Council and the Commission to ensure that consistency and to cooperate to that effect.

Furthermore, under Article 27 TEU, she/he shall contribute through his proposals to the development of the CFSP and shall ensure implementation of the decisions adopted by the European Council and the Council. She/he shall undertake the external representation of the Union for matters relating to the CFSP, shall conduct political dialogue with third parties on the

EU's behalf and shall express the EU's position in international organisations and at international conferences. Under Article 42 TEU she/he has the power to propose decisions relating to the Common Security and Defence Policy (the CSDP), including those initiating a mission to be adopted unanimously by the Council.

14 The Lisbon Treaty therefore established a triple-hatted post of the High Representative, which takes over the posts of High Representative for the CFSP, also undertakes the position of Vice-President of the European Commission and, instead of rotating six-monthly Presidency, preside over the Foreign Affairs Council. Her/his mandate, as also being Vice President of the Commission, in fact goes beyond the CFSP and contains, as laid down in Article 18 TEU, duty within the Commission for responsibilities incumbent on her/him in external relations and for coordinating other aspects of the Union's external action. However, as also being Vice-President of the Commission, she/he remains a *primus inter pares* without authority in practice over her/his colleagues, including commissioners who conduct some significant external fields of development, enlargement and European neighbourhood and humanitarian aid.² In exercising her/his responsibilities within the Commission, the High Representative shall be bound by Commission procedures to the extent that this is consistent with her/his responsibilities regarding the CFSP and chairmanship of Foreign Affairs Council. The statement that in exercising her/his responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with his/her responsibilities regarding the CFSP and the Foreign Affairs Council is thought to mean that her/his primary loyalty should be with the Council.³ High Representative is accordingly considered closer to the Council than to the Commission.⁴

The High Representative is situated in institutional limbo and as a pragmatic compromise, this construction results from the desire to keep her/him equidistant both from the Council and the Commission.⁵ It is correctly argued that President Barroso's actions diminished the responsibilities and powers of the High Representative entrusted to her/him by the Treaty. In contrast with the Treaty provisions, the Treaty-based coordinating powers of the High Representative over other Commissioners, especially with substantial elements of foreign affairs, have not been fully effectuated and brought back to the college of Commissioners chaired by the President of the Commission. Therefore, it seems to be the President who keeps reins in external matters. Furthermore, Vice-Presidential powers of the High Representative were curtailed by the removal of some fields from the previous Directorate-General for External Relations to other Directorate-Generals. As a consequence, the Commission and its President retained overall control over Commission policies in external affairs.⁶ Since on the one hand High Representative Ashton accepted to be deprived of her Treaty-based coordinating powers in the Commission, accordingly she is expected to act in accordance with the mandate given by the President of the Commission, on the other hand within the Council the High Representative acts upon a mandate given to her by the Council, within the spheres of these institutions, she/he factually formally lacks decision-making powers.⁷

Moreover, Foreign Affairs Council is chaired by the High Representative and she/he may ask to be replaced by the rotating Presidency. High Representative Ashton has developed a practice of demanding the rotating Presidency to chair the Foreign Affairs Council in her absence which reflects a return to the pre-Lisbon situation and is contrary to the intention to establish permanency in the Foreign Affairs Council. Additionally, even though the High Representative chairs the Foreign Affairs Council, she/he is not anymore a member of its configuration, which consists of foreign affairs ministers of the member states. The rotating Presidency was a *primus inter pares* of the Foreign Affairs Council, but the High Representative is not.⁸ As a consequence, due to these developments, some writers get the impression that "the post-Lisbon institutional balance in the area of EU external action slightly tilts in the direction of the member states, and the intergovernmental method of policy-making in the realm of EU external action writ large" and not only the High Representative remains behind the attainment of her/his full potential competences, but also the EEAS behind its full capacities and the aim set forth by the Lisbon Treaty to enhance coherence and consistency in foreign policy making.⁹

Bearing in mind these weaknesses, with these hats, her/his new role is defined and intended to end up dichotomy between the CFSP and other (previous Community) policies.¹⁰ The Lisbon Treaty, instead of abolishing the dichotomy between intergovernmentalism and supranationalism, thus tries to neutralise this dormant dualism under the auspices of the High Representative and the EEAS.¹¹ The High Representative fulfils a bridging function between the institutions and different aspects of EU external relations.¹² The post of the High Representative thus reinforces the possibility that Europe speaks with one voice, Europe is more visible, international partners confront one interlocutor and find one phone number to call Europe.

In contrast to national foreign ministers, the High Representative nonetheless does not hold the power to determine autonomously the EU's standpoint, thus where consensus cannot be attained among the member states, there will not be policy position which she/he may represent.¹³ If the member states fail to establish a common stance with consensus there so will not be any common stance in the CFSP.

Lastly, the external representation of the EU, which has legal personality, is to be carried out in a multi-structural basis. Within the triangle structure of foreign affairs, under Article 15 TEU, the President of the European Council shall ensure the external representation of the EU on issues concerning its CFSP, without prejudice to the powers of the High Representative. Under Article 17 TEU, the Commission, with the exception of the CFSP, and other cases provided for in the Treaties, shall ensure the EU's external representation. Under Article 27 TEU, the High Representative, by displacing the role carried out by the rotating Presidency, shall represent the EU for matters relating to the CFSP.

The Creation of the EEAS and the Underlying Grounds within its Construction

In the year 2000, the European Parliament proposed the establishment of a professional and a permanent Community diplomatic service, setting up of College of European Diplomacy devoted specifically to vocational training and transformation of the Commission delegations into Community delegations.¹⁴ The European Convention Working Group VII then formulated in 2002 the EEAS for enhancing coherence and efficiency in external action.¹⁵ According to Article 27 TEU the organisation and functioning of the EEAS shall be established by a decision of the Council, which shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission. In accordance with that procedure, the EEAS was launched on December 2010 by the Council Decision¹⁶ and became operational in 1 January 2011. Embryo of the EEAS was deliberated either as the Commission's External Service or as the policy unit of the Council.¹⁷

With regard to the grounds of its creation, the primary objective in the Lisbon Treaty has been set "to strengthen the EU's capacity to develop a long-term EU strategic framework in the area of external relations".¹⁸ The need for ensuring coherence on the one hand between the aspects of EU external action and external aspects of internal policies, on the other hand between foreign policy decisions and deployment of instruments in the field of external relations in order to maximise the coherence and efficiency of EU external action on the global stage compelled institutional arrangements in the Lisbon Treaty.¹⁹ There is a discrete European interest in the external arena to be formulated, expressed, defended and improved at the EU level. For a genuine European external policy there must be a permanent, stable, professional and genuine diplomatic service. For instance, at times when a member state filling the position of rotating presidency do not possess representation in a given overseas country, the tasks of presidency is required to be carried out by others who would have representation in that country. The EEAS is therefore designed to provide the High Representative an efficient instrument to support her/his task on an ongoing and daily basis and in representing and defending European interests and common priorities.²⁰ The EEAS is established in order to provide efficiency, coherence, visibility, continuity, consistency, stability and permanency on the international stage.

As put forth above, member states were reluctant to empower the Commission by strengthening its competences in the external policy and was willing to maintain intergovernmental decision-making in the CFSP, a fact which necessitated the creation of a new foreign service. A dilemma hence emerged since they intended to empower the High Representative and the EEAS at the expense of the Commission while limiting their independence by keeping them closely tied to the European Council.²¹ The synthesis of intergovernmental and supranational approaches through the establishment of the EEAS nonetheless defies the traditional dichotomy in interpretations of the European integration.²²

Generally powerful member states, such as UK, France, Germany, and some other states such as Poland, prefer intergovernmental solutions and decision-making in external relations and consider the EU's involvement complementary to their national approaches.²³ Member states generally regard the EEAS not as a substitute or replacement for national diplomatic services, as an alternative to their national diplomatic network or limitation to the action of the member states. They rather regard it to be a complement or supplement that may reinforce national action, an added value generated and an instrument of inter-institutional coordination, unbiased mediation of competing national interests and as power multipliers in order to increase national influence in foreign policy.²⁴

Diplomatic service is also regarded as a compromise between institutional and Member State interests.²⁵ The complex system set out in the Council Decision is contemplated as reflecting the deep suspicions by the institutions of anything thought detrimental to their powers.²⁶ Triple-hatted post of the High Representative and the EEAS thus appears as a platform for horizontal (inter-institutional) and vertical (the EU and member states) conflicts, struggles, influences and arrangements. Inter-institutional struggle, which reflects also vertical implications between the EU and the member states, therefore is incorporated into the new body established by the Lisbon Treaty. The EEAS accordingly involves supranational and intergovernmental approaches and so inter-institutional (horizontal and vertical) conflicts, interconnection, interaction and cross-fertilisation in its construction. Italy, for instance, interprets the Europeanisation process through the EEAS as that it would follow neither a purely supranational, nor a merely intergovernmental path, but a hybrid model of progressive European foreign policy integration based upon both continuous and competitive interaction between the Member states and the EEAS.²⁷

It should nevertheless be expressed that the new system also raised concerns of re-nationalisation or de-communitarisation of European foreign policy for the Commission, the European Parliament and some small Member states and is considered as reinforcing intergovernmentalism to the detriment of the Community method.²⁸ Many small Member states worry about the increased influence of big Member states (generally the big three the UK, France, Germany) on EU foreign policy the weakness of leadership at the centre which has been making the EEAS vulnerable to such an influence.²⁹

Tasks, Composition and Structure of the EEAS

The EEAS will assist and support the High Representative on the one hand in fulfilling her/his mandate to conduct the CFSP, including the CSDP, on the other hand in her/his capacity as President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council and in her/his capacity as Vice-President of the Commission, in respect of her/his responsibilities within the Commission for responsibilities incumbent on it in external relations, and in coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the Commission services.³⁰

Description of without prejudice to normal tasks of the General Secretariat of the Council and of the Commission services would give the legal services of General Secretariat of the Council and the Commission a basis to argue against the intrusion of the EEAS into the fields what they deem their territory.³¹ Legal determination of normal tasks is also considered reflecting the failure of the Lisbon Treaty in suppressing the intrinsic dualism of the EU's external action

and continued pillarisation under by leaving the CFSP, as clarified in Article 24 TEU, subject to specific rules and procedures.³²

Under Article 2(2) of the Council Decision, in addition to its primary task to support the High Representative in fulfilling her/his mandates, the EEAS shall assist the President of the European Council, the President of the Commission, and the Commission in the exercise of their respective functions in the area of external relations. Accordingly, it has tasks to assist the President of the European Council, the President of the Commission, and the Commission within the framework of its support the High representative or directly related to their functions in the area of external relations.

According to the Council Decision, the Commission and the EEAS will agree on detailed arrangements relating to the issuing of instructions from the Commission to EU delegations a copy of which will simultaneously be provided to the Head of Delegation and to the EEAS central administration. Thus in areas where the Commission exercises its conferred powers, the Commission may issue instructions to delegations which shall be executed under the overall responsibility of the Head of Delegation. Apart from that possibility, the Head of Delegation shall receive instructions from the High Representative and the EEAS, and shall be responsible for their execution. Therefore, to a certain extent a single chain of command primarily delivers efficiency and autonomy.

Under Article 6 of the Council Decision, the staff of the EEAS shall carry out their duties and conduct themselves solely with the interests of the Union in mind. Without prejudice to the third indent of Article 2(1) and Articles 2(2) and 5(3) (generally in terms of instructions issued by the President of the European Council, the President of the Commission, and the Commission or its assistance with regard to these institutions), they shall neither seek nor take instructions from any government, authority, organisation or person outside the EEAS or from anybody or person other than the High Representative. Nor shall they accept any payments of any kind whatever from any other source outside the EEAS.

The description of being a functionally autonomous body separate from both the General Secretariat of the Council and the Commission with legal capacity necessary to perform its tasks and attain its objectives nevertheless does not mean political independence. It rather signifies functional independence and its organisational separation from both the Council and the Commission whose policy instructions are channelled through the High Representative.³³ In the context of its task to assist and support the High Representative in the exercise of her/his functions, the EEAS is, in the same way as the High Representative, legally subordinated to the Council in the CFSP and to supranational institutions in other policy fields.³⁴ The EEAS is part of the vertical chain of command structure which runs via the High Representative, through to the Council and up to the European Council.³⁵

In terms of its composition, according to Article 27 TEU, the EEAS “shall 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.” Staff of the EEAS accordingly consists of the officials from the Commission, the Council Secretariat and diplomatic services of the Member states.³⁶ In addition to officials and other servants of the European Union, including personnel from the diplomatic services of the Member states appointed as temporary agents, the EEAS may, if necessary in specific cases, have recourse to a limited number of specialised seconded national experts.

All staff in the following departments and functions, with specific exceptions, in the General Secretariat of the Council is transferred en bloc to the EEAS to act as intergovernmental units of the EEAS: CSDP and crisis management structures, including Crisis Management and Planning Directorate (CMPD), Civilian Planning and Conduct Capability (CPCC), European Union Military Staff (EUMS), EU Situation Centre (SITCEN); Directorate-General E, including Entities placed under the direct authority of the Director-General, Directorate for the Americas and the United Nations, Directorate for the Western Balkans, Eastern Europe and Central Asia, Directorate for Non-Proliferation of Weapons of Mass Destruction, Directorate for Parliamentary

Affairs in the area of CFSP, New York Liaison Office, Geneva Liaison Office. All staff in the following departments and functions, with specific exceptions, in the Commission is also transferred en bloc to the EEAS: Directorate-General for External Relations; External Service including all heads of delegation and deputy heads of delegation and support staff directly attached to them; Directorate-General for Development.

Permanent officials of the Union coming from the Commission and the Council should represent at least 60 % of all EEAS staff. Officials of the Union and temporary agents coming from the diplomatic services of the Member states, who have become permanent officials of the Union in accordance with the provisions of the Staff Regulations, shall have the same rights and obligations and shall be treated equally.³⁷ Seconded staff officially owes loyalty first and foremost to the EU rather than the member states accredited them and have to report home country via official channels.³⁸ In the preamble of Council Decision it is declared that its staff should carry out their duties and should conduct themselves solely with the interest of the Union in mind.

According to Article 6 of the Council Decision, recruitment to the EEAS should be based on merit whilst ensuring adequate geographical and gender balance and its staff shall involve a meaningful presence of nationals from all the member states. Each Member State shall provide temporary national agents in the EEAS with a guarantee of immediate reinstatement at the end of their period of service to the EEAS, which shall not exceed eight years, unless, it is extended for a maximum period of two years in exceptional circumstances and in the interest of the service.

It thus gathers European and national levels of officials/diplomats under the same framework and blends inter-institutional and vertical conflicts, struggles, tensions, experiences, loyalties in the single construction. It reflects the mixture of divergent supranational, intergovernmental and national organisational and working cultures, attitudes, cultures, experiences and traditions. In that respect, the inclusion of national diplomats in the EEAS is considered reflecting the belief that, whilst being a traditional domain of State sovereignty and so intergovernmentalism, diplomacy can be instilled with the elements of the functionalist approach, thus this institutionalised cooperation between the national diplomats could generate a de facto solidarity leading to the emergence of a common diplomatic culture.³⁹ Inclusion of seconded national diplomats into the EEAS may also provide vertical cooperation and coherence between the CFSP and national foreign policies.

The increase in interconnection, interpenetration, cross-fertilisation between the EU and national foreign policy-making has led to the integration of the EU and national diplomatic structure into a single dynamic system. With that, several developments even occurring at primarily intergovernmental level have begun to challenge the concept of intergovernmentalism, while transgovernmentalism has gained popularity thus drawing attention to the multiplication of linkages, vanishing of clear delimitation of boundaries between the main units of the EU's foreign policy system, coordination between vertical and horizontal actors and the effect of conceptualisation of non-institutional actors such as civil society organisations in the foreign policy.⁴⁰

The EEAS is made up of a central administration with Brussels as its headquarters and of Union delegations to third countries and international organisations. According to Article 4 of the Council Decision, the EEAS shall be managed by an Executive Secretary-General, who operates under the authority of the High Representative, shall take all measures necessary to ensure the smooth functioning of the EEAS, including its administrative and budgetary management and shall ensure effective coordination between all departments in the central administration as well as with Union Delegations. It shall be assisted by two Deputy Secretaries-General. The central administration of the EEAS shall be organised in directorates-general including directorates-general comprising geographic, multilateral and thematic desks; a directorate-general for administrative, staffing, budgetary, security and communication and information system matters; and the crisis management and planning directorate. The central administration of the EEAS shall also include a strategic policy planning department, a legal department and departments for

interinstitutional relations, information and public diplomacy, internal audit and inspections, and personal data protection.

According to the preamble and Article 5(6) of the Council Decision, the Protocol on the Privileges and Immunities of the European Union will apply to the EEAS, its officials and other agents. The High Representative shall enter into the necessary arrangements with the host country, the international organisation, or the third country concerned and shall take the necessary measures to ensure that host States grant Union delegations, their staff and their property, privileges and immunities equivalent to those referred to in the Vienna Convention on Diplomatic Relations.

The High Representative shall lay down the rules on mobility to ensure that the members of the staff of the EEAS are subject to a high degree of mobility and in principle all the staff shall periodically serve in Union delegations.⁴¹ Mobility is essential for the staff to acquire different experience and to avoid an excessive identification with the interests of the member states from which they are posted.⁴²

Under Article 27 TEU it is laid down that “This service shall work in cooperation with the diplomatic services of the member states”. Additionally, under Article 221 Treaty on Functioning of the European Union (TFEU), Union delegations in third countries and at international organisations shall represent the Union, by taking over the role of rotating Presidency, and shall be placed under the authority of the High Representative and act in close cooperation with member states' diplomatic and consular missions. In other words, rotating presidency lost power in the external policy and heads of delegations now represent the EU rather than these rotating presidencies. Some member states, such as Czech Republic, see that a positive development as the presidency of the EEAS is more neutral than the previous rotating Presidency and more-friendly towards smaller member states.⁴³

As regulated under Article 5 of the Council Decision, the decision to open or close a Union delegation shall be adopted by the High Representative, in agreement with the Council and the Commission. Staff in delegations shall consist of EEAS staff and, where appropriate for the implementation of the Union budget and Union policies other than those under the remit of the EEAS, Commission staff. Each Union Delegation shall be placed under the authority of a Head of Delegation, who shall have authority over all staff in the delegation, shall be accountable to the High Representative for the overall management of the work of the delegation and for ensuring the coordination of all actions of the Union, receive instructions from the High Representative and the EEAS, shall be responsible for their execution and shall have the power to represent the Union in the country accredited. Within the ambit of competences conferred upon it, the Commission may also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation. Union delegations shall have the capacity to respond to the needs of other EU institutions, in particular the European Parliament, in their contacts with third countries or the international organisations, shall work in close cooperation and share information with the diplomatic services of the member states and shall support the member states, upon their request, in their diplomatic relations and in their role of providing consular protection to European citizens in third countries on a resource-neutral basis.⁴⁴

Additionally, according to Article 35 TEU the diplomatic and consular missions of the member states and the Union delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that decisions defining Union positions and actions are complied with and implemented. They shall step up cooperation by exchanging information and carrying out joint assessments and also contribute to the implementation of the right of European citizens to protection in the territory of third countries.

Common political and military reporting, diplomatic representation, information gathering, processing analysis provided by EU delegations gives European and national officials similar information and analysis about the global and local trends and situations and enrich common knowledge.⁴⁵ Information resources of the member states could therefore be benefited

through the seconded national diplomats. However, some concerns, such as lack of trust and transparency in the EEAS, have already been asserted as the primary obstacles before the information-sharing, cooperation and trust to the EEAS.⁴⁶

With regard to that construction, small member states have raised concerns about the domination of the big three member states (UK, France, Germany called also a kind of *directoire*) in policy making within the structure of the EEAS. Even Swedish diplomats argue that intergovernmentalism has increased, despite the fact that the Lisbon Treaty intended to encourage some degree of supranationalism, due to the fact that the big three member states now have a larger platform than they have under the rotating Presidency possibly bolstered by the nascent nature of the EEAS.⁴⁷

In terms of the improvement of the EEAS, such countries as Germany, Italy, Sweden, and Poland are in favour of further deepening of the foreign policy integration.⁴⁸ Meanwhile some others, especially those participating in the "Future of Europe Group" (also called as Westerwelle Group due to being initiated by the German Foreign Ministry⁴⁹), who had formulated long-term proposals for the future of Europe with the purpose of facilitating further integration and the long-term governance structure of the European Union, proposed that;

- the coherence of the EU's external action should be enhanced;
- the EEAS should be strengthened within the framework of the review of the EEAS Decision in 2013 to achieve a comprehensive and integrated approach for all components of the EU's international profile;
- the High Representative and the EEAS should be responsible for central external action areas such as the Neighbourhood Policy, their role in the area of development cooperation should be strengthened and for other areas their institutional capacity for coordinating the different EU actors has to be strengthened;
- substantial revision of the decision on the EEAS in 2013 should be made;
- more majority decisions in the CFSP, joint representation in international organisations, where possible, and a European defence policy should be provided.⁵⁰

Germany has shown even more willingness to go beyond the full implementation of the Lisbon Treaty and supported the introduction of qualified majority voting in some fields of the CFSP such as sanctions, joint representation in international organisations, shared reporting and analysis, including the taking over by the EEAS some consular services on a voluntary basis.⁵¹

National embassies are considered as an indication of sovereignty of the member states and their replacement by the EU delegations is seen as a threat to sovereignty. In that regard, EU delegations are considered as a complementary to the national embassies.

Smaller member states such as Benelux countries and Austria have advocated the expansion of the supporting role of EU delegations in consular protection and crisis management.⁵² Some small member states, such as Estonia, think that the EEAS could be accorded consular tasks in the future and strengthening the global voice of the EU.⁵³ Many member States are interested in the possibility of co-locating their embassies with EU delegations in order to save costs and facilitate coordinated action.⁵⁴ Many Ministries of Foreign Affairs have significantly reduced their personnel after the establishment of the EEAS.⁵⁵

The EEAS's Relationship with the Institutions

The mutual duty of cooperation is laid down in Article 3 of the Council Decision between on the one hand the EEAS and on the other hand the diplomatic services of the member states, the General Secretariat of the Council and the services of the Commission in order to ensure consistency between the different areas of the Union's external action and between those areas and its other policies. "The EEAS and the services of the Commission shall consult each other on all matters relating to the external action of the Union in the exercise of their respective functions, except on matters covered by the CSDP. The EEAS shall take part in the preparatory work and procedures relating to acts to be prepared by the Commission in this area." The EEAS also may enter into service-level arrangements with relevant services of the General Secretariat of the Council, the Commission, or other offices or inter-institutional bodies of the Union. The EEAS shall extend appropriate support and cooperation to the other institutions and bodies of the European Union, particularly the European Parliament.⁵⁶

The Commission retains the capacity to exert a long-term influence on the EEAS through a control over its operational budget, since the EEAS cannot spend money without Commission's approval.⁵⁷

Furthermore, as mentioned above, the Commission wanted to retain the authority in the notable aspects of the external relations of the EU supranational. Barroso kept the primary responsibility in significant external fields such as enlargement and European neighbourhood policy (detached from the Directorate-General for External Relations and combined with the enlargement policy); development; trade; international cooperation, humanitarian aid and crisis response which all have explicit external relations roles with the Commission. Commissioners for development, enlargement and neighbourhood and humanitarian aid are kept in close cooperation with the High Representative/Vice President and the EEAS to ensure coherence in the external policy. In the field of development policy, the High Representative and the EEAS shall work with the relevant members and services of the Commission throughout the whole cycle of programming, planning and implementation of the external actions and assistance instruments, whereas the management of the Union's external cooperation programmes stays under the responsibility of the Commission. The Trade Commissioner nevertheless does not cooperate directly with the High Representative/Vice-President and the EEAS, even though trade is one of the fields which have a genuine international character.⁵⁸ The High Representative participates in the meetings of the External Relations Group of the Commissioners which comprises the President, the Trade Commissioner, the Development Policy Commissioner, the Commissioner for Humanitarian Assistance and the Enlargement and the European Neighbourhood Policy Commissioner.⁵⁹

"Under the overall authority of the EEAS Heads of Delegation, about 1/3 of staff are employed by the EEAS and 2/3 are employed by the European Commission."⁶⁰ With the creation of the EEAS, the Commission created a new Service for Foreign Policy Instruments directly under the authority of the High Representative as well as assigning it the responsibility for the financial management and implementation of operational budgets for the CFSP, the Instrument for Stability and support for election observation missions. It is co-located with the services of the EEAS, but remains separate from the EEAS in administrative and functional terms since the Commission has exclusive responsibility for the management of operational chapters of the EU budget. That allows Foreign Policy Instruments to act as a bridge between the CFSP structures in the EEAS and the central services of the Commission.⁶¹

Under Article 3(4) of the Council Decision, "the EEAS shall extend appropriate support and cooperation to the other institutions and bodies of the Union, in particular to the European Parliament and may also benefit from the support and cooperation of those institutions and bodies, including agencies, as appropriate." On the other hand, under Article 4(5) of the Council Decision, "the High Representative and the EEAS shall be assisted where necessary by the General Secretariat of the Council and the relevant departments of the Commission." In these formulations, the words as appropriate and where necessary leave a margin of discretion to the

General Secretariat of the Council and the Commission, service-level arrangements entered into by the EEAS with relevant services of the General Secretariat of the Council, the Commission, or other offices or inter-institutional bodies of the Union could not close. That situation is therefore defined by some scholars as an asymmetrical relationship between the EEAS on the one hand and the Commission services and the General Secretariat of the Council on the other with the EEAS performing assistantship to multiple political masters and their services.⁶²

The European Parliament obtained budgetary control authority on the EEAS and right to be informed. Under Article 36 TEU, the High Representative shall regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and the CSDP and inform it of how those policies evolve and shall ensure that its views are duly taken into consideration. As regulated in the preamble of Council Decision, the European Parliament will fully play its role in the external action of the Union, including its functions of political control, as well as in legislative and budgetary matters. The High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that its views are duly taken into consideration. The EEAS will assist the High Representative in this regard. Members of the European Parliament also have the right to access to classified documents and information in the area of CFSP.

In accordance with Declaration by the High Representative on Political Accountability, the High Representative will seek the views of the European Parliament on the main aspects and basic choices of CFSP. She/he will respond positively to requests from the European Parliament for newly appointed Heads of Delegations which the Parliament considers as strategically important to appear before AFET (Committee of Foreign Affairs) for an exchange of views before taking up their posts. He/she will also facilitate the appearance of Heads of Delegations, EU Special Representatives, Heads of CSDP missions and senior EEAS officials in relevant parliamentary committees and subcommittees in order to provide regular briefings.⁶³

Conclusion

The establishment of the EEAS is a great start in the European integration process to ensure efficiency, coherence, visibility, continuity, consistency, stability, permanency in the external action of the EU and to improve international capacity of the EU to become an international actor commensurate with its economic power. Could the EEAS further contribute Europeanisation in the foreign affairs? The EEAS could reinforce the institutionalisation of EU foreign policy and formalising a process of rule-governed action in an organisation with staff, headquarters and budget entirely dedicated to the EU external relations.⁶⁴ The EEAS's potential rests in becoming a true inter-institutional decision-shaping body in achieving greater coherence in EU external action.⁶⁵ One of the noteworthy achievements of the EEAS would be realized when it turns into a regular procedure for member states in bringing foreign policy initiatives to the EU table.⁶⁶

With the common European diplomatic culture, spirit, solidarity and loyalty in the framework of the EEAS, institutional autonomy of the EEAS would further be improved. The EEAS capacity for independent decision-making and implementation would be an indicator of the member states' commitment to strengthen the supranational aspect of the EU's external relations the fact of which is strictly linked to the question of what kind of international actor they want the EU to be.⁶⁷

Nevertheless, recent records show that to a larger extent the EEAS has failed to become an effective community level instrument in establishing a common approach towards critical international developments. For instance, with respect to the matter of Palestinian State, the member states voted differently about the admission of Palestine to UNESCO. Divergent national foreign policies also occurred with respect to Arab revolutions. For instance Germany abstained from the Security Council Resolution 1973 (2011) which authorises a no-fly zone on Libyan military aviation. That decision on its own reflected the existence of no common position between member states on significant international matters.

Among the weaknesses of the EEAS, many of the staff transferred from the Directorate-General for External and the General Secretariat of the Council are not professional diplomats.⁶⁸ In the last years of founding the EEAS, member states have appeared too eager to maintain their pre-eminence, whereas the EEAS, instead of becoming a *primus inter pares* actor shaping the foreign policy agenda, has been kept more of a secretariat for the foreign ministries of the member states.⁶⁹ Even though steps should have been taken in order to provide EEAS staff with adequate common training in accordance with article 6 (11) of the Council Decision, a College of European Diplomacy for common training could not be established.

Nonetheless, it is yet too early for reaching a definite conclusion about the success of the EEAS, since the construction of a diplomacy service blended of inter-institutional and national staff with a common European mind and loyalty should be considered as a long-term project. There is still a long road to be marched. The question of whether the future course of integration in external action would be more supranational or intergovernmental in character, thus member states would commit to a common foreign policy at the EU level or continue to maintain divergent foreign policies in the long run appears to depend partly on the success of the EEAS in fulfilling its tasks and achieving its objectives.

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- ⁵⁵ *Ibid*, p. 7.
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