The creation of the European External Action Service: an institutional battle for the future of the EU’s foreign policy apparatus

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Abstract

On the 1st of December 2010 came into being the European External Action Service – the potential “unique voice” of the EU on the world stage. The creation from scratch of a new body as complex as the EEAS, meant to re-organize the entire apparatus for external action of the EU was a lengthy process of harsh negotiations between the institutional stake-holders. As the post-Lisbon institutional framework of the EU was unfolding, an ever more powerful Parliament, a Commission jealously guarding its prerogatives, a Council representing 27 different national interests and an ambitious High Representative fought some fierce battles before agreeing on the actual format of the EEAS. The European Council had no formal role in this process, but its permanent presidency might complicate the landscape of external representation of the EU, the more so due to President Herman van Rompuy’s belief that what is at stake is not “speaking with one voice” but “sending the same message”. Is this about a resurgence of European Council activism in the external policy field? What role, then, for the High Representative, the EEAS and the rotating presidency of the Council in the new institutional setting where the Parliament, the Commission and the Council clash more and more often?

This paper aims at providing both an account of the painful process of agreeing on the EEAS project details and an analysis of the remaining questions and the emergent challenges after its creation, with a focus on the battle within the EU institutional framework as reformed by the Lisbon Treaty and on the perspectives for consolidation two years after its entry into force.

1 Beneficiary of the „Doctoral Scholarships for a Sustainable Society” project, co-financed by the European Union through the European Social Fund, Sectoral Operational Programme Human Resources and Development 2007-2013
Introduction

Considered “the natural administrative expression of the European Union’s desire to give greater force and coherence to its external policies”\(^2\), the European External Action Service (EEAS) is credited with the capacity of contributing to defining better the common interests of the member states which the EU can promote in its relations with third countries. From a maximalist perspective or simply an optimistic one, the EEAS is considered the core of a future European diplomatic service, capable of supporting not only “a unique voice” of the EU in foreign policy, but also an authentic diplomatic culture shared by the 27 member states, in light of the possible creation – at a certain point – of the United States of Europe. From a minimalist perspective or simply a realistic one, the EEAS will represent just another EU body, designed to fulfill first and foremost an administrative task (that is assisting the High Representative in her activity of coordinating the Foreign and Security Policy), while benefitting from limited resources and minimal symbolical significance. Last but not least, from a pessimistic and Euro-skeptical perspective, the EEAS will not do nothing less but making the EU bureaucracy even more difficult, while performing with limited efficiency because of the big states’ reluctance of renouncing being in the limelight when it comes to managing foreign policy and because of the numerous existing possibilities of rivalry and overlapping activities and competences with the European Commission.

The first major step has already been made: on January the 1\(^{st}\) 2011 began the transfer of personnel from the relevant structures of the Commission and of the General Secretariat of the Council to the EEAS; consequently, the General Directorate External Relations from the Commission will cease to exist because most of its personnel was transferred to the EEAS, this being the case also for a part of the personnel within the General Directorate Development. The remaining part of the latter will merge with the


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Directorate External Cooperation Programs, thus being created within the Commission the new General Directorate Development Cooperation.

The next step would be seconding diplomatic personnel from the national level, according to an algorithm agreed upon during last year after a series of harsh negotiations that indicated the important stakes the member states had in providing the necessary human resources for the adequate functioning of the new body.

This paper has a double purpose:
- on the one hand, to provide an analysis of the process of creating the EEAS, emphasizing the institutional and decision-making stages that had to be gone through, as their evolution revealed the struggle for power within the renewed institutional framework of the EU after the Lisbon Treaty;
- on the other hand, to attempt a systematization of the challenges raised by the creation of the EEAS and to provide some answers to the remaining questions.

The paper is based on a thorough monitoring of the entire institutional process of creating the EEAS, starting from the Treaty provisions and reconstructing step by step – through press releases and decisions – the progress of the inter-institutional negotiations that took place until the current stage of effective operationalization of this new body. The second component of the paper thus offered the possibility of advancing my own arguments and ideas and bringing the analysis up-to-date.

I. Treaty provisions regarding the European External Action Service

The idea of a diplomatic service of the European Union was first launched ten years ago by Joshka Fisher, former German Minister of Foreign Affairs with excellent Euro-enthusiast credentials, but turning it into reality has become possible only with the entry into force of the Lisbon Treaty on the 1st of December 2009. The Treaty of Lisbon has basically absorbed the provisions regarding the EEAS from the Treaty establishing a Constitution for Europe, signed in October 2004, rejected in French and Dutch referenda in 2005 and reconverted in the Reform Treaty adopted in 2007 in Lisbon.

The creation of a Minister of Foreign Affairs of the EU represented one of the most important innovations brought by the Treaty establishing a Constitution for Europe,
the aim of which was to ensure the coherence and effectiveness of the Common Foreign and Security Policy, as well as to endow it with “a unique voice”. This Minister of Foreign Affairs would have presided over a diplomatic service comprised of over 125 EU delegations in third countries. It was supposed to be named “The European External Action Service” and to be created by a Council decision after consulting the European Parliament and being granted approval by the Commission. Officials from the Commission and the General Secretariat of the Council, as well as seconded national diplomats were to comprise the EEAS personnel. Moreover, the members of the EU delegations in third countries and at international organizations would have become part of the EEAS as well.

It is obvious that these provisions from the Treaty establishing a Constitution for Europe (article 296, Section 3)\(^3\) have not been changed at all in the Treaty of Lisbon amending the Treaty on the European Union and the Treaty of the European Community (renamed the Treaty on the Functioning of the European Union), where the EEAS is referred to in article 13a of the former (TUE). It is this article that provides for the fact that “in exercising his/her mandate, the High Representative is supported by an European External Action Service”, which “works in cooperation with the diplomatic services of the member states and is composed of officials from the relevant services of the Commission and the General Secretariat of the Council, and from seconded national experts from the diplomatic services of the member states as well”\(^4\). The organizing and functioning of the EEAS were to be established by a Council decision, based on a proposal by the High Representative, after consulting the Parliament and being granted approval by the Commission.

Hence, the High Representative had the mission of advancing a proposal for the creation and functioning of the EEAS and of reaching an agreement with all the institutions involved before the initiative became reality through a Council decision.

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Actually, this proved to be an authentic modern odyssey of endless negotiations, of extorting concessions, of providing “carrots” and proposing amendments, unraveling all over the year 2010 under the pressure of the 1\textsuperscript{st} of December deadline, in order to mark symbolically the anniversary of one year after the entry into force of the Lisbon Treaty by the official launch of the EU’s new diplomatic service.

**II. The odyssey of launching the European External Action Service**

The negotiations for creating the EEAS started soon after the Lisbon Treaty entered into force, but they were prolonged until the summer of 2010 because the agreement between several EU institutions – the Council (representing the member states), the Commission and the Parliament – had to be reached. Moreover, the main difficulty resided in the confrontation of two contradictory approaches to the nature of the new EU body – if it would be a stronghold of intergovernamentalism or, on the contrary, it would have a more prominent community character. What was fundamentally at stake was an efficient division of responsibilities between the new body and the European Commission, especially in the field of the Development policy, which accounts for a considerable proportion of the budget allocated to the external action of the European Union. As a matter of fact, one of the main objectives of the Lisbon Treaty was to strengthen the coherence and effectiveness of the role played globally by the EU, which necessarily implied a better coordination of all the elements comprising its external action: from foreign policy \textit{per se} to development cooperation, humanitarian aid, economic relations with third countries (commercial policy), promoting human rights, etc.

**II. 1. Catherine Ashton announces the project of creating the EEAS**

On the 25\textsuperscript{th} of March 2010 Catherine Ashton – the EU High Representative for Foreign Affairs and Security Policy – made public her project for organizing and functioning of the European External Action Service, an innovative body the creation of which was stipulated by article 27(3) of the Treaty on the European Union, as amended
by the Lisbon Treaty (with article 13a), entered into force on the 1\textsuperscript{st} of December 2009. The project was announced at the end of protracted preliminary negotiations between the High Representative, the member states and the main institutional stakeholders: the Commission, the Council and the European Parliament.

According to Catherine Ashton, the mission of the new autonomous body would be “to support the High Representative in fulfilling her mandate of coordinating the Common Foreign and Security Policy and to ensure the coherence of the external action of the EU”\textsuperscript{5}. This support would be offered for exercising her double capacity of President of the Foreign Affairs Council (without any prejudice to the responsibilities of the General Secretariat of the Council) and of Vice-President of the Commission, in fulfilling those attributions pertaining to the external action of the EU (without affecting the regular tasks of the Services within the Commission). The European Parliament would exercise the same role of political control, budgetary and legislative authority towards the new body as well, while maintaining the practice of the EP being consulted as always concerning the main aspects and basic options of the Common Foreign and Security Policy.

According to the same article 27(3) from the Treaty on the EU as amended by the Lisbon Treaty, the EEAS would be composed of officials from the Commission and the General Secretariat of the Council, as well as from seconded diplomatic personnel from the national level. The new body would enjoy budgetary autonomy, which necessitated the modification of the Financial Regulations so as the Commission stop being the sole administrator of the EU budget. The High Representative would thus become responsible for managing the share of the EEAS from the EU budget. Moreover, the functioning of the EEAS and the configuration of its personnel necessitated several modifications in the Staff Regulations of the EU. Both sets of amendments had to be agreed upon together with the Commission and the European Parliament before the EEAS project was officially adopted.

The new body would benefit from “the necessary legal capacity so as to complete its tasks and fulfill its objectives”\(^6\), while having the central headquarters in Brussels and 136 delegations in third states and at international organizations. In addition to the assistance provided to the High Representative, the EEAS would support also the President of the Commission, the President of the European Council and the Commission in their external representation activities.

At central level, the EEAS would be managed by a Secretary General and two Deputy Secretaries-General; it would be organized as general directorates: a number of directorates covering all states and world regions, structured on both geographic and thematic criteria; one Directorate for Administrative affairs (including the Communication and Security components) and several other existing entities, placed under the authority of the High Representative – the Directorate for crisis planning and management, the EU Military Staff, the Situational Center, the Civilian Planning and Conduct Capability. Each delegation of the EU in a third state would be lead by a Head of Mission, who would have the legal capacity to represent the EU and would be responsible to the High Representative, while the decision of opening or closing such a delegation would be taken by the High Representative after consulting the Commission and the Council.

The proposal envisaged that by the time the EEAS reached its full capacity, national experts seconded from the member states will have comprised one third of its personnel. However, on the short term, in order for the EEAS to become functional, its personnel would be overwhelmingly composed of officials transferred from the relevant departments within the General Secretariat of the Council and from the Services within the Commission.

As an exception, the HR managed to obtain from the Commission, after thorough negotiations, the responsibility of administering the budget of the new body and that of preparing the strategic decisions of planning the financial allocations for third states included in the EU’s External Cooperation and Development Programs (such as the Development Cooperation Instrument, the European Development Fund, the European Instrument for Democracy and Human Rights, the European Neighbourhood and

\(^6\) Proposal for a Council Decision establishing the organization…
Partnership Instrument, the Instrument for Cooperation with industrialized states, the Nuclear Safety Cooperation Instrument) as well. The management of these instruments would remain the responsibility of the Commission, but the EEAS would contribute to the programming and implementation cycle, especially when it comes to the strategic documents for various states and regions and the national and regional Indicative Programs.

This outcome was considered at that moment to be Catherine Ashton’s great victory and the main concession offered by the Commission respectively, due to the fact that when it comes to Development policy (the multiannual programs of which benefit from funds amounting to 30 billion Euros), the HR would become the decision-making instance, while the Commission would be the executive agency. However, the decisions would be jointly prepared by the EEAS and the Commission under the guidance of the Commissioner who holds the Development portfolio. A similar arrangement was proposed for the programs pertaining to the Neighbourhood Policy, which demonstrated that the Commission retained its levers at strategic decision-making level; otherwise, the project would not have been accepted by the Commission.

In her speech before the European Parliament when she presented the EEAS project, Catherine Ashton emphasized that the future body was called a “Service” for the simple reason that it was meant to support her activity as High Representative, but also because the EEAS would be at the disposal of the President and the Members of the Commission, that of the President of the European Council and that of the President of the EP and of the MEPs as well⁷. In addition to this, she offered a series of concessions in order to win the EP on her side, highlighting that each EU delegation in third states would have a contact point with the EP and the Heads of Mission would cooperate with the EP when the latter debates upon issues concerning the host state of the respective delegation; moreover, the EU missions would prepare the official visits of the MEPs in the respective third states and last but not least, the future Heads of Mission would, after their appointment, go to the EP for “an exchange of opinions” with the MEPs. In addition

to all these, the EP was bound to participate through the co-decision procedure to the modification of the Financial Regulations and Staff Regulations which were absolutely necessary for creating of the EEAS.

At the press conference back in March 2010, Catherine Ashton highlighted that the creation of the EEAS represented a part of the response the EU had to give to the challenges of the 21st century, in light of the Lisbon Treaty goals: the EU needed a more coherent and effective global action, while the EEAS would promote strategically comprehensive policies (by combining more efficiently foreign policy and development policy, for example)\(^8\).

Whilst the negotiations with the Commission were very harsh because extremely delicate concessions and administrative transformations had to be obtained by the HR, within the Council, Catherine Ashton enjoyed from the very beginning the member states’ support and the debate in the EP was very relaxed. Nevertheless, the initial project of the EEAS was criticized early on by the German MEPs who considered that the future Secretary General of the EEAS was granted too much power\(^9\); the Secretary General was even compared to a spider ruling over its own web since he was bound to manage the entire EEAS at central level (including its budget and personnel) and to control the whole informational flux and the HR’s communication with the Service.

For the German MEPs, this model was too similar with the practice within the French Foreign Affairs Ministry and the fact that at that time the main contenders for the job were two Frenchmen - Pierre Vimont, the French ambassador in Washington and Pierre Sellal, the Secretary General of the Foreign Affairs Ministry – fuelled the suspicions that the EEAS project would be noting less but “a continuation of the French policy by other means” (thus paraphrasing von Clausewitz’s famous adage).

The second fearing invoked by the German MEPs was that within the EEAS the military component pertaining to the Common Security and Defense Policy appeared to


be isolated from the political decision-making\textsuperscript{10}; the Civilian Planning and Conduct Capability and the Military Staff were not included in the chain of command within COPS (the Political and Security Committee), which was the highest decision-making instance after the HR in matters of crisis management, and were being made directly accountable before the Secretary General. Consequently, the CSDP was bound to perform its activity separately, having a strong military element ruled over by an almighty civil servant, which made the German MEPs raise the question of accountability.

**II.2. The project receives the member states’ approval**

On the 26\textsuperscript{th} of April the Foreign Affairs Council took place in Luxemburg being attended by the HR and the Foreign Affairs Ministers of the member states. It was then that the General Affairs Council took place as well, which was presided over by Miguel Angel Moratinos, the Spanish Foreign Affairs Minister; the agenda of the meetings was dominated by the debate on the proposal concerning the organization and functioning of the EEAS, advanced a month earlier by the HR Catherine Ashton. The Foreign Affairs Ministers announced their support for the EEAS project as proposed by the HR, but they also advanced some minor amendments after the debate in the Council was joined by the Defense Ministers\textsuperscript{11}.

It is worth mentioning that, according to the Lisbon treaty, the HR must preside over the meetings of the Defense Ministers as well, a duty performed by the competent Minister belonging to the country that held the six-month presidency of the Council before the entry into force of the Lisbon Treaty; in addition to this, the new treaty provided the legal framework for separate meetings of the Defense Council, although they still had to take place together with those of the Foreign Affairs Council, but there was also possible for Defense Ministers to make formal decisions.

\textsuperscript{10} Honor Mahony, “Ashton makes concessions…”

The discussion on April 26th envisaged especially the integration of the crisis planning and management components within the EEAS; according to the Lisbon Treaty, the units of strategic planning, intelligence (Civilian Planning and Conduct Capability, Crisis Management Planning Directorate, Situational Center) and the EU Military Staff had to be incorporated in the EEAS, being placed under the direct authority of the HR or of a person the HR delegated directly. This restructuring was meant to improve the coherence between the political and military operations components of the EU’s external action, thus providing the EU a clear advantage by positioning it as the only international actor capable of approaching a conflict from the initial stage (prevention) to the manifest one (crisis management – both civilian and military) and to the final stage (post-conflict reconstruction, long-term development which serves as conflict prevention tool as well).

The Foreign Affairs Ministers supported in essence Catherine Ashton’s proposal for the creation of the EEAS, but they pointed to some technical details that had to be taken care of by compromise between the member states’ representatives. The main technical issue referred to the initial source of personnel for the EEAS; the member states wanted to make sure that they would obtain a considerable share for their own seconded diplomats, fearing at the same time that during the first stage of its functioning, the EEAS would be dominated by officials coming from the Commission and the Council. A second technical detail to be tackled was the fact that the Commission wanted to keep its capacity of providing instructions to the EU delegations directly regarding those issues that fell under its competencies, while the missions were formally part of the EEAS and thus under the HR’s control or of one of her delegates. Last but not least, there was also a controversy regarding the budget management of the EU delegations in third states, to be performed by the Heads of Mission themselves and not by the Commission as it was the case with its former delegations.

Despite these issues, all in all, the project benefitted early on from the political support provided by the member states, but it was contested by the European Parliament, the opinion of which was needed so that a formal decision could be taken within the Council. The MEPs expressed their discontent provoked by the fact that the proposed

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12 Honor Mahony, “Member states to signal broad backing for diplomatic service blueprint”, in EUobserver, 23 April 2010, retrievable at http://euobserver.com/9/29916
structure of the EEAS undermined its accountability and promoted the return of intergovernmentalism, to the disadvantage of a concerted action supervised by the Commission. At that stage of the negotiation process, Catherine Ashton offered a significant compromise in the inter-institutional battle by proposing that the EEAS would be managed not by a Secretary General (which discontented the German MEPs as they considered it to be implying a too bigger concentration of power similarly to the French model of managing foreign affairs), but by a Council of three Directors.

II.3. The inter-institutional agreement for creating the European External Action Service

On the 21st of June a meeting took place in Madrid which was attended by the HR and representatives of the Commission, the EP and the six-month presidency of the Council in order to finalize the negotiations for the creation and functioning of the EEAS. At the end of this reunion, it was announced that “a political agreement regarding a proposal for a Council directive regarding the organizing and functioning of the EEAS”\(^\text{13}\) was reached. The agreement included also two additional declarations of the HR regarding the political responsibility and the basic structure of the central administration of the EEAS. The meeting in Madrid represented the fifth round of negotiations with the representatives of the EP (after those that had taken place on April 14th, April 27th, May 14th and May 27th) after the EEAS project had been launched in March by the HR who later gained the support of both the member states and the Commission in mid-April.

Details of the institutional agreement

The details of the agreement announced on June 21st revealed that the protracted negotiations had as a result a compromise that allowed both parties (the HR on one hand

and the EP on the other hand) to claim victory\(^\text{14}\). Basically, the two perspectives had been harmonized because at stake was the effective functionality of the future Service.

The Madrid Agreement provided for the creation of the EEAS as a unique body reuniting approximately 8 000 civil servants of which only 40% could be represented by temporary seconded personnel from the member states, the rest of 60% being bound to originate from the Commission; the agreement envisaged that the huge number of officials from the Commission had to be gradually balanced by national experts and diplomats coming from the member states. No personnel quotas would be established for the 27 member states. The EEAS would have its own budget, separate from other institutions, but subjected to the same control of the EP.

The strategic planning regarding the EU’s relations with third states would be elaborated within the EEAS, but the final decision in this matter would remain the responsibility of the European Commission. The geographical desks within the EEAS would not be duplicated within the Commission.

The EEAS would have a Secretary General and two deputies, as well as a General Director for Budgetary and Administrative matters.

Finally, in case the HR had a very busy schedule, she would be deputized in various contexts by the Commissioner holding the relevant portfolio or by the Foreign Affairs Minister representing the state holding the rotating presidency of the Council and not by a civil servant from the EEAS.

**II. 4. The European Parliament adopts the EEAS project**

The continuous institutional recalibration which became visible in the aftermath of the entry into force of the Lisbon Treaty brought in the limelight the European Council (acknowledged as an autonomous institution by the Treaty and benefitting from its own budget and a permanent presidency) and the European Parliament (which now enjoys the extension of the former co-decision, renamed “the ordinary legislative procedure”, to over 90% of the EU’s policies), while the Commission suffered a restraining of its role.

\(^{14}\) Honor Mahony, “Details emerge on final set-up of EU diplomatic corps”, in EUobserver, 22 June 2010, retrievable at http://euobserver.com/9/30342
and prerogatives. This is how at least two fundamental issues which influenced greatly the negotiations for the creation of the EEAS can be explained. First of all, this was about the determination of the MEPs to use to the utmost the extended prerogatives granted by the Lisbon Treaty to the EP; the Parliament thus had the right to participate in the co-decision procedure for modifying the Financial Regulations and the Staff Regulations, which was absolutely necessary for the creation and functioning of the EEAS. Hence, the EP had basically a veto right in this field, which it threatened to use, thus prolonging the negotiations and playing very hard so as to gain maximum concessions from the HR.

The second issue concerned the re-enacting of the confrontation between the intergovernmentalist and the community perspectives in the context of the debate on the EEAS. The European Parliament was worried by the tendency of restraining the role played by the Commission (especially during the debate regarding the strategic planning of multiannual assistance programs for third states – the question about who would plan and who would execute – the Commission or the EEAS), which in their opinion could lead to creating a vacuum of accountability, or its dispersion towards the member states. This was feared as enabling an advance of the intergovernmental method to the disadvantage of consolidating the community method. Here originated the entire discussion regarding the political accountability, which would be the object of a separate declaration when the Council adopted the decision for the creation of the EEAS, accountability which would be exercised by the HR according to the inter-institutional agreement in June. In addition to this, the EP insisted unsuccessfully that the EEAS should be subordinated to the Commission, so as to maintain the community mark on the EU’s foreign policy.

On the 8th of July a plenary session of the EP dedicated to the vote on the EEAS took place in Strasbourg. Scheduled two weeks after the inter-institutional agreement was reached in Madrid (which ensured the support of the Commission, the Council and of the EP negotiators for Catherine Ashton’s project of the EEAS), the voting session in the EP represented a significant milestone in the legal procedure needed for the formal setting-up of the new diplomatic service. The EEAS project was adopted with 549 favourable votes,
78 against and 17 abstentions\textsuperscript{15}. The voting was based on the report by Elmar Brok, Guy Verhofstadt şi Roberto Gualtieri, the MEPs who acted as the negotiators team of the EP during the dialogue with the HR Catherine Ashton and the European Commission; they managed to obtain a series of modifications of the initial project proposed by the HR and that helped forging the majority that passed the vote.

In her speech before the voting in the EP, Catherine Ashton highlighted both the significance of putting together the numerous instruments the EU benefits from in order to promote coherent actions in its external relations (such as development cooperation, diplomacy, civilian and military crisis management, humanitarian aid, etc) and the concern for conceiving the EEAS project so as to respect the fundamental claims of the EP\textsuperscript{16}. Among these claims, maintaining the community method in all policy fields in which it was applicable before the creation of the EEAS, the clear delineation between political and financial accountability for the new body, the balancing of various arrangements concerning the Development Cooperation policy (distributing the tasks between the Commission, which was the traditional player in this field and the newcomer, the EEAS), the composition of the diplomatic service in order to ensure gender and geographical balance, the efficient managing of the EEAS at central level and prioritizing the promotion of human rights and good governance globally were mentioned.

The voting in the EP represented the last milestone in the odyssey of creating the EEAS, although a favourable outcome was predictable because of the agreement reached in Madrid two weeks before and of the strong support by the EP rapporteurs who recommended in their report the adoption of the EEAS project. Basically, the MEPs got the main concession they asked for, but without this representing some kind of “defeat” for the HR’s camp.

As of December 1\textsuperscript{st} 2010, the EEAS was bound to benefit from a complex integrated system of external representation with 136 embassies in third states and

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international organizations, with a total of 800 officials, to which another 1 500 officials within the central administration of the EEAS were added. The mission of the new body was clear: to strengthen the role played by the EU on the international stage or, as Elmar Brok, one of the EP negotiators, highlighted, the EEAS had to contribute to transforming the EU into “a global player instead of payer”\textsuperscript{17}. In other words, the EU was finally getting the instrument and the will for overcoming its awkward condition of “economic giant, but political dwarf”.

It is worth mentioning that the decisions regarding the EU’s foreign policy were still supposed to be taken unanimously by the Council of Ministers, but the HR would exercise control over the EU missions abroad even though they were financed by the member states’ budgets. In addition to this, the Commission would maintain responsibility for the development policy, including the management of the 6 billion annual budget, even though the HR promised to promote more determinately the human rights and good governance agenda globally, which could trigger a series of conditionalities in the relation with third states or some clashes between EU institutions (while the goal is that of providing more coherence to the external action of the EU, although there would be two different institutions to manage it – the Commission and the EEAS).

Last but not least, the EP was granted the right to adopt or reject the annual budget of the EEAS and an informal veto right regarding the appointments for the EU missions abroad, as well of the right of access to some confidential documents of the EEAS. According to the MEPs, their objective was not to control the EU’s foreign policy, but to “monitor” it and make sure that the decisions taken with regards the budget were “rational”\textsuperscript{18}.

On October 20\textsuperscript{th}, the amendments to the Financial Regulations and Staff Regulations were voted with an overwhelming majority during the EP plenary session, thus basically giving the green light for the creation of the EEAS. The voting was based on three separate reports: one concerning the financial regulations, the second one


\textsuperscript{18} Diplomatic service: EU to become....
regarding the staff regulations and the third one referring to modifications of the EU budget for the year 2010; each of these reports were adopted with a majority of over 500 votes to which no more than 51 votes were opposed in each case.\(^{19}\)

The EP rapporteurs - Elmar Brok (EPP, Germany), Roberto Gualtieri (S&D, Italia), Bernhard Rapkay (S&D, Germany) and Guy Verhofstadt (ALDE, Belgium), who designed the reports on which the debate and voting were based, issued a joint statement the day before the plenary session, pointing to the fact that the EP had tried hard during the negotiations with the Commission, the Council and the HR to make sure that the issue of geographical balance in the future structure of the EEAS was taken “seriously and effectively” in consideration, being included as legally binding in both legislative proposals later on (the Decision regarding the creation of the EEAS and the Rapkay Report on modifying the Staff Regulations).\(^{20}\)

Hence, the EP was taking the merits for providing the desideratum of geographical balance with legally biding value, while Baroness Ashton was supposed to ensure respect for this principle as the recruitment of personnel for the EEAS was carried on and to take corrective measures in case the first assessment of the EEAS revealed some inadvertencies from this point of view.

**The content of the amendments voted by the EP**

The budgetary rules of the EEAS from the initial proposals were amended by the EP so as to ensure transparency and financial accountability. According to the amended rules, the EEAS will be considered as an EU institution, with its own share of the EU budget which will necessitate granting “budget discharge” from the EP; hence, the EP will exercise budgetary control over this body as it does over the Commission (which manages the budget of the EU). The Commission will manage the operational budget of the EEAS and will have to provide the EP and the Council with detailed documents.

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\(^{19}\) *EU diplomatic service: accountability and balanced recruitment*, EP Plenary sessions, External Relations, 20 October 2010, retrievable at http://www.europarl.europa.eu/en/pressroom/content/20101020IPR88408/

regarding all administrative and operational expenses linked to the external action of the EU together with the annual budget proposal.

The Staff Regulations for the EEAS were adopted by the EP on the basis of the Rapkay Report, according to which recruitment and appointments for the EEAS will have to be targeted so as to provide the Service with personnel who attains “the highest standards of competency, efficiency and integrity, selected on the widest geographical bases among the citizens of the member states”. In other words, the EEAS will have to be composed of “a significant and adequate number of citizens from all EU member states”. The second fundamental issue was that of ensuring gender balance, thus the report highlighted that the appropriate measures would be taken in order to ensure equal opportunities for the gender less represented within certain working groups. In mid-2013, the HR will present a report on the application of the Staff Regulations with a focus on the implementation of the two basic principles – gender and geographic balance.

Until June 2013, the EEAS will recruit officials from the General Secretariat of the Council, the Commission and the national diplomatic services of the member states; as of July the 1st 2013, access to EEAS jobs will be granted to personnel from other EU institutions such as the EP as well. By the time the EEAS attained its maximal capacity, the EU civil servants will have accounted for 60% of AD-level personnel and at least one third of the EEAS personnel will have originated from the member states’ diplomatic services.

The amendment to the EU budget for the year 2010 was made on the basis of a report elaborated by Roberto Gualtieri (S&D, Italy) and László Surján (EPP, Hungary) and it consisted of introducing a tenth section to the EU budget dedicated to the EEAS. This section stipulated the budget structure and personnel diagram of the EEAS, with a provision regarding the creation of 100 permanent posts and contracting 70 other temporary ones, shared between the Brussels headquarters of the EEAS and its delegations abroad. The financial impact of this modification was of 9,52 million Euros for 2010.
The favourable vote of the EP was “historical” and made an EU official from the HR’s entourage to declare to EUobserver that “we are all now one big happy family”\(^\text{21}\). From a legal and institutional point of view, the voting in the EP paved the way for the creation of the EEAS – the diplomatic service of the EU – its official launching being scheduled for December 1\(^\text{st}\), the first anniversary of the entry into force of the Lisbon Treaty.

In the speech delivered during the debate in the EP, Catherine Ashton emphasized that she wanted the EEAS to represent an institution that “each member of the Parliament, each member state and each European Commissioner would be proud of” and “would see Europe reflected in its personnel, in the appointed ambassadors and in the people who work there”\(^\text{22}\). She insisted that those who illustrate different (political and diplomatic) traditions and come from very diverse places will be brought together in order to create “an authentically European service”.

The Rapkay Report which served as basis for the amendments at the Staff Regulations was initially adopted on the 18\(^\text{th}\) of October in the Legal Affairs Committee of the EP; it provided for “the adequate and significant presence of citizens from all EU member states”, thus eliminating any reference to the introduction of national quotas favoring the newest member states, which are very poorly represented within the institutional system of the EU. Catherine Ashton’s counselors rejected the idea of introducing a clause in order to favour the new members, arguing that recruitment for the EEAS had to be based on competency, not on political correctness.

Consecrating the principle of geographic balance truly represents an innovation, but it neither provides the opportunity for the new member states (from the 2004-2007 wave of enlargement) to overcome their national personnel deficits in the EU foreign policy apparatus, nor guarantees that such practices as appointing heads of EU delegations abroad on the basis of the particular links (mostly historical ones) shared

\(^{21}\) Andrew Rettman, “Full speed ahead on EU diplomatic corps after Strasbourg vote”, in EUobserver, 20 October 2010, retrievable at http://euobserver.com/9/31085

between their country of origin and the host state for the EU delegation would no longer be promoted.

According to a study published in August 2010 by the Polish Institute of International Affairs regarding the practice of appointing the heads of the Commission’s delegations in third states, of the existing (at that moment) 115 posts of Head of Mission, 90 belonged to Belgian (15), British (10), Italian (16), French (16), German (11), Dutch (10) and Spanish (10) citizens and only two of them belonged to officials originating from the new member states (one from Lithuania and one from Hungary)\(^{23}\). Moreover, only 11 of those 115 heads of delegations were women.

The report showed also that the practice of appointing heads of delegations in the countries of Africa and Latin America favoured those originating from the EU member states which enjoyed special relations with the respective host countries (such as former colonial ties). However, as far as the Balkans and the former Soviet area were concerned, the appointments would still favour the old member states, without having any particular connections neither with the respective host countries, nor even with those regions generally\(^ {24}\). In addition to this, the report highlighted that the command of the language in the host country was not even among the criteria used for appointing heads of delegations, with the exception of a situation in which the respective language was official both for the host country and for the EU. Hence, at the time when the report was written, none of the heads of mission in the Arab countries spoke Arabic, neither the head of mission in Moscow spoke Russian, nor the head of mission in Ankara spoke Turkish\(^ {25}\).

Finally, the Polish report recommended that the EEAS should capitalize fully on the human resources of all 27 member states and should raise the number of appointments of former national high ranking officials or from the EU institutions, while taking into consideration as criteria for these appointments the knowledge about the local conditions and a good command of the host country’s language\(^ {26}\).


\(^{24}\) *The Practice of Appointing the Heads of EU Delegations*…, p. 17-19

\(^{25}\) *The Practice of Appointing the Heads of EU Delegations*…, page 20

\(^{26}\) *The Practice of Appointing the Heads of EU Delegations*…, page 28
December 1st 2010 marked the first anniversary of the entry into force of the Lisbon Treaty, which was adopted with the goal of making the functioning of the EU more efficient and of reducing its much invoked (and criticized) “democratic deficit”, among others. Hence, December 1st had to mark as well the launching of the EEAS as an innovative body introduced by the Treaty and designed to function as a Ministry of Foreign Affairs of the EU, the main task of which was to enhance a unitary diplomacy and the promotion of a long-desired “unique voice” of the EU on the international stage. But none of the two “events” benefited from an official highlight at EU level; the lack of celebrations was actually in tune with the economic difficulties undergone by the Eurozone.

Nevertheless, December 1st did mark the rather theoretical launching of the EEAS. At that time, it did not have neither budget, nor headquarters, but it had a clear leadership composed of Catherine Ashton together with the earliest appointed officials - Pierre Vimont, Helda Smidt and Maciej Popowski – and an even more clear mandate: to facilitate the promoting of a unique voice for the EU in the international arena.

III. Perspectives

According to the official rhetoric promoted by Catherine Ashton, the EEAS was designed to help the EU confront with the foreign policy challenges of the 21st century. More concretely, the EEAS has also the task of creating a homogenous diplomatic culture at European level and of enhancing the emergence of “European diplomats” in the true meaning of the phrase (that is people holding genuine knowledge of the EU’s history and contemporary political realities, including the differences between the 27 member states and who would be loyal first and foremost to the EU and only after that to their native countries). In this light, plans were drafted for the founding of a European Diplomatic Academy, taking as model the European Defense College in Rome, which trains the experts for the Common Security and Defense Policy.

The idea originated in a 2000 EP Resolution on a common community diplomacy, which proposed the setting up of a College of European Diplomacy, “devoted specifically to vocational training to ensure that Community officials involved in external activities
both at the Commission and the Council are given not only technical training in Community policies, but also full-blown diplomatic and international relations training.\textsuperscript{27} Whilst it is true that the respective resolution envisaged no more than ensuring unitary and professional training was provided to Community officials representing externally the EU, it is worth mentioning it because of its ambivalence. The proposal betrays an EP desirous of deepening the community approach to the external relations of the EU, but careful enough to reassure that “the objective is certainly not to create a single diplomatic service to replace the foreign services of the Member States with a European foreign service properly speaking, but simply to improve the quality of the Community’s joint external service”.\textsuperscript{28} For the year 2000 it remains nevertheless a revelatory proposal, which, all caution measures taken, contained an embryo of the future debate about endowing the EU with an authentic Minister of Foreign Affairs and a diplomatic service to assist him or her in fulfilling his or her duties.

Back in 2010, the creation of the EEAS triggered a scrupulous re-organization of the entire EU external representation apparatus and the reconfiguration of institutional roles. The transformation of the former 136 Commission delegations abroad into official embassies of the EU has already started. It was in this context that the HR envisaged eliminating the EU Special Representatives for various countries or regions, since in the forefront would be the Heads of Missions within the future embassies of the EU. The appointment of the EU Special Representative in Afghanistan as the Head of the EU Commission’s delegation in Kabul set a trend that will become the general rule in the future. Consequently, if maintained, the office of EU Special Representative will cover a broader geographical area and not just a single state as was the case with the EUSRs for the Republic of Moldova of FYROM. For instance, there will be a single EUSR covering the Balkan region.

Due to the fact that the new EU embassies (the former delegations of the Commission) will be in the first line of the improved representation apparatus of the EU in third states, they will have to cooperate closely with the national embassies of the


\textsuperscript{28} European Parliament resolution on a common Community diplomacy, page 71
member states in those respective host countries. It is in this field that it will become clear the extent to which the EU member states are willing to implement and support a unitary foreign policy, coordinated in Brussels by what is desired to be a genuine Ministry of Foreign Affairs of the EU. Secondly, as in the case of traditional embassies, those of the EU will have to perform the traditional duty (from a diplomatic point of view) of providing information to the central headquarters (in Brussels), thus becoming the HR’s “eyes and ears” abroad. It is obvious that, once having been created, these embassies of the EU would have to be used to their maximum potential and efficiently as instruments of managing the EU’s relations with third states. This implies avoiding, as far as possible, the risk of an unproductive rivalry with the national embassies; another risk to be avoided would be that of maintaining them as bureaucratic and decorative organisms, without any real contribution to designing and implementing the EU’s foreign policy. Consequently, the appointment of EUSRs will only be justified where a regional approach is needed – like in the Balkans or in the Caucasus – including for performing diplomatic “shuttles” in various negotiation contexts which claim a lower level of representation (than that of the HR herself).

As far as the institutional game is concerned, the Lisbon Treaty brought – including through the creation of the EEAS – a series of adjustments and redistributions of tasks which triggered difficulties both within the EU and in its relations with third states. One of the most famous examples is that of the refusal by the US president Barack Obama to attend the EU-US summit scheduled for May 2010 in Madrid, during the Spanish presidency of the Council. It has been speculated that the American president’s refusal was linked to the White House’s reluctance towards an EU with an uneasy functioning and with the confusion triggered by the modifications brought in by the

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31 The European External Action Service- Roadmap for Success, page 9
Lisbon Treaty, recently entered into force at that time, to the external representation of the EU. In other words, it has been thought that the Americans just wanted to let the Europeans put “their house in order” according to the rules of the new Treaty before the US president participated in a summit which could have had issues of representations on the EU side. The EU-US summit eventually took place in November 2010, as an appendix of the NATO summit in Lisbon, maintaining the classical line of a mostly symbolic reunion, with few tangible results, but this time with a President of the European Council who had fully taken up his new role.

It is worth mentioning that, according to the Lisbon Treaty, the EEAS is designed to support the HR’s activity, who shares the main aspects of external representation of the EU with the President of the European Council and with the Commission. The question which can be raised is that of the role left for the presidency of the Council which in 2011 belongs to two ambitious Central European countries – Hungary and Poland. It is more than likely that the two will try to make sure that their first presidencies will be remembered and revered.

However, in the current institutional framework, the Council Presidency has nothing at stake; in an EU composed of 27 member states (for the time being), each one of them gets the chance to hold it once every 14 years, and when it does, the prerogatives are very much restrained after the Lisbon Treaty. Actually, the rotating presidency of the Council prepares the agenda for the Council meetings and presides – through its ministers – the various Council configurations with the exception of the Foreign Affairs Council (presided by the HR). The external representation of the EU, which used to be the responsibility of the prime-minister of the state holding the Council presidency, is now performed by Herman van Rompuy, the President of the European Council. This leaves to the respective head of government the limited role of presenting before the EP the objectives and the accomplishments of his country’s Presidency of the Council, in the beginning and in the end, respectively of his six-months mandate.

Even the Minister of Foreign Affairs of the state holding the Council presidency was left with no visibility, since its former mission was completely taken over by the Office of the HR. In other words, the mandate of president of the Council could soon transform into an administrative burden for the big states (which already have other
means of influencing the agenda and decision-making in the EU) and into an valueless trophy for the little states (precisely because of the huge administrative effort needed and of a limited genuine capacity of agenda-setting triggered by holding this position).

A solution for “revitalizing” the rotating presidency can be that of delegating power, an arrangement under which foreign ministers could act as special envoys in “hot spots” around the globe, replacing the current practice of assigning this kind of tasks to diplomats. But the solution itself poses a dilemma – should this privilege be granted only to the Foreign Affairs Minister of the state holding the rotating Presidency or can it be extended to all Ministers, as a possible compensation for the fact that they have lost the rights of taking part in the European Council together with their heads of state or government? If the second option is preferred, it could be justified by the desire to capitalize on a particular member state’s experience or historical connection with certain parts of the world (states, regions).

All in all, the foreign minister of the state holding the rotating Presidency may still have a chance of making himself or herself useful: according to a concession granted by Catherine Ashton to the EP during the negotiations for the creation of the EEAS, in case of her absence, she can only be represented by the Commissioner holding the relevant portfolio or by the Foreign Affairs Minister from the six-month Presidency (and under no circumstances by a civil servant form the EEAS). In addition to this, according to the Council’s Rules of Procedures – article 2(5) – the HR can be replaced as chair of the Foreign Affairs Council only by the representative of the six-month Presidency. This is why it has been argued that the rotating Presidency’s role would not be a passive one, but rather an auxiliary one, with the focus shifting from the political and institutional limelight to a more functional background.

From the same perspective, tensions could emerge at some point between the HR and the President of the European Council, since the latter performs, besides his main prerogative of coordinating the activity of the institution he rules over, “at his level and in

33 The Treaty of Lisbon. A Second Look at the Institutional Innovations, page 72
34 The Treaty of Lisbon. A Second Look at the Institutional Innovations, page 72
this capacity, the external representation of the EU in matters pertaining to the Common
Foreign and Security Policy” (article 15(6) of the TUE as amended by the Lisbon
Treaty). Taking into consideration that the President of the European Council will be in
most cases a former head of state or government, it is possible that he or she would want
to contribute significantly to the foreign policy of the EU, as facilitated by the contacts
established with other heads of state or government (in third states), a level which is
generally beyond the access of the HR. Consequently, the stakes would be to avoid
competition between the two offices and the mutual undermining of each other’s activity.
In addition to this, it is vital to avoid the creation of a second foreign policy bureaucracy
for serving the President of the European Council, since the EEAS will have both the task
and the competence (due to its composition and expertise) to provide advice and support
to the HR first and foremost, but to other institutions as well, when it comes to the
foreign policy of the EU. Hence, two very important results would be obtained:

- the EEAS is not duplicated by an extended bureaucracy of foreign policy advisers
  for the President of the European Council;
- the coherence of the external action of the EU would be enhanced, by promoting a
  unique and clear message at the level of all EU institutions.

Here can be introduced in the discussion the topic of “a unique voice” versus “a
unique message” for the EU’s foreign policy. Generally, in her capacity of High
Representative of the EU for Foreign Affairs and Security Policy, Catherine Ashton
promotes the rhetoric of endowing the EU with “a unique voice”, including through the
creation of the EEAS. This issue is constantly reminded in her official speeches and
declarations and is consonant with the general rhetoric of the EU. But the President of the
European Council – Herman van Rompuy – has introduced another element in this
equation: what if the goal is not “speaking with one voice”, but “sending the same
message” through all channels available to the EU (various representatives of the EU
institutions who have external representation capacity, including the member states)? He
pointed out to this fact in a speech delivered in Berlin on the 9th of November 2010, when
he argued that “if we want to count in the world, then each of the 27 member states and
the EU institutions should give the same key messages. Not per se a single voice, but a
single message, delivered by all 27 countries”. He added that “the Lisbon Treaty provides us with the political and diplomatic means to do this”. Apparently, this is contradictory with the rhetoric of the HR or designed to serve as “a plan B” when the EU does not manage to actually speak with only one voice in external affairs – which should be, according to the Treaty, that of the HR. However, it can be argued that this is more than a fall-back option for situations when numerous instances within the EU take public positions with regard to various international developments without coordination at EU level. The unique message can be the essence of the much desired coherence of the EU’s external action in general and foreign policy in particular more that the quest for a unique voice. It, too, claims a certain level of coordination among those who convey it, but it also provides space for nuances and national or institutional flavours which can only enrich it. While it is obvious that this is more of a pseudo-debate, it was worth mentioning because what could have appeared as two distinct philosophies regarding the EU’s foreign policy are actually two instruments for attaining the same goal.

Last but not least, as far as political accountability is concerned, the situation remains complicated: the EEAS will receive instructions from, and report to, the HR who, in her turn, will be accountable to different institutions for different policies, because her office is double-hatted:

- to the Council, in matters regarding the Foreign and Security Policy;
- to the College of Commissioners for the component of external relations of the EU;
- to the EP, as a member of the Commission, in areas managed by the latter.

And when it comes to the EP, who fought so vigorously to preserve the Commission’s rights – as the illustration of the community method - during the negotiations for the creation of the EEAS, this is only the beginning. Benefitting from extended institutional prerogatives granted by the Lisbon Treaty, although not formally in the realm of foreign affairs, its ambition is to make its presence felt anyway, the more

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so because it can count on new allies – the national Parliaments of the member states. As they were granted a consolidated role in the functioning of the EU by the same Treaty, it is in this context that the EP’s determination “to reinforce its cooperation with national parliaments of Member States as required by the Treaty, in the area of the Union's external action, and especially concerning the CFSP and the CSDP” can be understood. This was highlighted in the EP legislative resolution of 8 July 2010 on the proposal for a Council decision establishing the organisation and functioning of the European External Action Service, second paragraph. It remains to be seen what will be the results of this “reinforced cooperation”, but it can be argued that new institutional actors have entered the stage.

**Conclusions**

To conclude, the discussion about the EEAS can serve for fuelling two separate debates – one regarding the extent to which the Lisbon Treaty has altered the institutional landscape of the EU in general and its foreign policy apparatus in particular and another one focusing on the EEAS as such, analyzing its potential, its goals and its political, diplomatic and symbolic significance. In this paper I have chosen the first, but inevitably some elements of the second one have been touched upon as well, as I tried to argue why was the creation of the EEAS dedicated so much attention during 2010.

There are several questions the answers to which can summarize the particularities of this modern odyssey enacted within the EU.

The first question would be why the EU needed the EEAS. The official rhetoric states that the main purpose was that of building a stronger foreign policy of the EU and endow it with a unique voice. The EP even recommended that the HR should develop the EEAS as a “community instrument” and use it as an integrated platform for promoting the interests and the values of the EU.


The second question would be why was the process of creating it so painful and complicated. The answer lies in the institutional intricacies of the EU. As the post-Lisbon institutional framework of the EU unfolded, an ever more powerful Parliament, a Commission jealously guarding its prerogatives, a Council representing 26 different national interests and an ambitious High Representative fought some fierce battles before agreeing on the current format of the EEAS. Although the European Council had no formal role in this process, its permanent presidency might complicate later on the landscape of external representation of the EU.

The last question refers to what can the EEAS do and whether it is endowed with symbolical significance. It can be argued that the EEAS will have the opportunity or, even more accurately, the task of harmonizing diplomacy at national and European level and of implementing a foreign policy of the EU which aims at being more coherent and proactive. This could be done by combining the political, diplomatic, trade, aid and development components under the authority of the HR and with the approval of the member states, within an institutional framework significantly altered by the Lisbon treaty and in a constantly changing world.

For some, this meant that the EEAS would become the materialization of the concept of a “common European diplomacy”, the federal nature of which leaves no doubt as to the future of the EU.\(^{38}\)

For others, there is nothing more to the EEAS than a pragmatic approach dictating the creation of a common culture and practice of the European officials and diplomats, in order for it to become an instrument for the cross-fertilization of foreign policy-making across the EU and the interchangeability between national and European administrations.\(^{39}\)

Either way, the creation of the EEAS remains one of the most significant turning points in the short history of the Common Foreign and Security Policy and an excellent case-study for the institutional reconfigurations in the post-Lisbon environment within the EU.

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