

The European Parliament: A Major Player in the Negotiations on the Creation of the European External Action Service (ARI)

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Theme: This ARI looks at the role of the European Parliament in the negotiations on the organisation, structure and functioning of the future European External Action Service.

Summary: The European External Action Service (EEAS) is one of the most important innovations of the Treaty of Lisbon. One of the objectives it will pursue will be to strengthen the role of the EU on the international scene. This new diplomatic service will be in charge of formulating and executing the EU's common foreign policy and representing the EU in the world. Its staff will be drawn from the Commission and Council and from Member States. The European Parliament, whose role in the decision-making process has been strengthened by the entry into force of the Treaty of Lisbon, has been a major player in the negotiations between the Council and the Commission on the creation and configuration of the EEAS. The need for Parliament's approval of the EEAS's budget and staff regulations forcibly turned the EP consultation process into a *de facto* co-decision process in which the EP has been successful in securing many of its recommendations regarding the organisation and functioning of the EEAS.

Analysis:

The First Stages

Since the introduction of 'European Political Cooperation' in 1970, the need to coordinate the actions of Member States in defence and foreign policy matters has always been a part of the European project, but it was the Maastricht Treaty in 1992 that established the Common Foreign and Security Policy (CFSP) as the new EC policy that allowed Member States to take common actions by a method of intergovernmental decision-making based on unanimity. In reality, though, this condition, together with the absence of political will to agree on EU action abroad, almost always as a consequence of the influence and interference of the Member States' own foreign policy and interests, prevented a common European foreign policy from being consolidated. This became clear during the Balkan conflict and the bloody massacres in Africa in the 1990s and in the Iraq crisis of 2003.

Despite all this, the true origin of EU common foreign policy can be found in the work of Javier Solana, in his more than 10 years as 'Mister CFSP' and High Representative (as of 2005) and through his internationally-recognised and remarkable efforts towards a common EU foreign policy and presence. This recognition, along with the general conviction that a strong and credible EU was necessary on the international stage at both

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the economic and political levels in order to face the challenges of globalisation pushed the European Convention, which drafted the European Constitution, to propose substantial modifications to the Treaties. One of these proposals was to foster the creation of a European External Action Service. The creation of such a Service was discussed by a Work Group on 'External Action' comprising representatives of the governments of the Member States, National Parliaments and the European Parliament.

The Work Group considered two options for the creation of the EEAS. One of these was to create a joint service with officials from the Directorate-General for External Relations, the General Secretariat of the Council and assisted by members of the diplomatic services of the Member States. The other option was to maintain two separate administrations and a joint private office of the Ministry of Foreign Affairs to oversee their coordination. In the end, the Work Group favoured the option of uniting external services and thus avoiding unnecessary and costly duplications.

The Treaty of Lisbon, which came into force on 1 December 2009, took up most of the innovations introduced by the battered EU Constitution to strengthen the EU's role on the international stage, such as the creation of the position of High Representative for Common Foreign and Security Policy and Vice-President of the Commission, as well as the creation of an EEAS. According to the Treaty, this new diplomatic service would work in cooperation with the diplomatic services of the Member States and comprise officials of the General Secretariat of the Council and of the Commission, as well as staff seconded from national diplomatic services of the Member States. Its organisation and functioning would be established by a Decision of the Council which would act on a proposal of the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.

The Birth of the Decision Proposal

The groundwork for starting up the EEAS began after the signing of the Constitutional Treaty but was halted after the failure of the referendums in France and the Netherlands in May and June 2005. Work began anew after the Treaty of Lisbon was signed, and the objective then became to have the EEAS up and running as soon as the Treaty came into force and the High Representative was named. The Member States and the European Parliament were consulted throughout the process and defended different approaches. While the former were in favour of a service with a balanced composition of staff drawn from the Commission, the Council and the Member States, the European Parliament, through its Resolution of 26 May 2005 opted to incorporate the EEAS, in organisational and budgetary terms, in the Commission's staff structure, thereby allowing it to retain political control over the service.

Work stalled again after the negative result of the Irish referendum in 2008, only to move forward again after the Council announced that a second referendum would be held in Ireland. The European Parliament approved another resolution, in October 2009, in which it reminded the Council that it was essential to maintain an early and substantive dialogue with Parliament for the effective start-up of the EEAS and to ensure that it receives the necessary financial resources. Parliament also reiterated that the EEAS must be incorporated into the Commission's administrative structure, as this would ensure full transparency, and be subject to the decisions of the Council in the traditional fields of external policy (common foreign and security policy and common security and defence policy) and to the decision of the College of Commissioners in the field of common external relations.

Parliament also began to make its demands clear with a view to the negotiations on the Council Decision. First, all staff of the EEAS should have the same permanent or temporary status and the same rights and obligations irrespective of their origin, and should possess a certain objective independence in the context of the instructions which follow from the responsibilities defined in the Treaties. Secondly, the High Representative and Vice-President of the Commission should be assigned the powers of the appointing authority for the EEAS. Third, the decision to set up the EEAS should establish the organisational structure of the service and provide for the establishment plan to be adopted as part of the budget of the Commission (administrative expenditure) in the course of the annual budget procedure. Fourth, the EEAS should be headed by a Director-General answerable to the High Representative and Vice-President of the Commission. Fifth, the EEAS should be divided into various directorates, each one specialised in one of the various geostrategic fields and further directorates for security and defence policy issues, civilian crisis management and multilateral and horizontal affairs including human rights and administrative affairs. Lastly, the High Representative and Vice-President of the Commission should commit to informing the Parliament's Committees on Foreign Affairs and Development about their appointments to senior posts in the EEAS and to agreeing to the committees conducting hearings with the nominees, if the Parliament so decides.

On 23 October 2009, the report drafted by the Presidency and the Member States was presented. In order to develop the legislative proposal, and based on this report and the recommendations of Parliament, the High Representative (Catherine Ashton) created a Work Group comprised of a dozen experts drawn from the Council, the Commission and the rotating Presidencies. In the end, the proposal for a Council Decision was made on 25 March 2010.

The Negotiation of the Agreement and the Roles of the Spanish Presidency and the European Parliament

Barely a month after the project of the Decision was presented, on 26 April 2010, the General Affairs Council, presided by Miguel Ángel Moratinos, reached an overall political agreement backed by the European Commission. This agreement, however, did not bring the process of the Decision to an end. The new institutional powers granted by the Treaty of Lisbon have revolutionised the decision-making process and the European Parliament, whose legislative power has been reinforced and has become a key player since its approval is necessary to adopt budget and staff regulations.

The European Parliament is taking its new responsibilities seriously, and the three main political groups (the European People's Party, the Group of the Progressive Alliance of Socialists and Democrats and the Group of the Alliance of Liberals and Democrats for Europe) led by the rapporteurs of the report to the Parliament's Committee on Foreign Affairs –Elmar Brok, the German MEP of the People's Party, and Guy Verhofstadt, the Belgian Liberal MEP– and the rapporteur of the Committee on Budgets –the Italian Socialist Roberto Gualtieri– worked together to include the Decision among its priorities. To the demands mentioned earlier, these Parliament rapporteurs added the following: a greater spectrum of competences for the future service (development policy, humanitarian aid and neighbourhood policy), an equitable distribution of nationalities in the staff, the appointment of political delegates with political responsibilities to assist Baroness Ashton, and a diplomatic corps with at least half of its members drawn from the Commission. Without a doubt, the Parliament wanted to make it clear that it would not let the

community method be pushed to the side nor would it accept insufficiently strong parliamentary policy and budget oversight.

After long workdays, Catherine Ashton, the Spanish Presidency of the EU and the representatives of the European Parliament reached a political agreement on the organisation and functioning of the EEAS on 21 June in Madrid. In addition, they agreed on two declarations by the High Representative on political accountability and the basic structure of the central administration. Yet this agreement, reached in record time, still had to be confirmed by EC institutions.

A large part of the success of this agreement is thanks to the Spanish Presidency, which played an excellent and discreet role as mediator in the negotiations, taking up many of the European Parliament's initiatives knowing that it had threatened to use its competences in budget and staff issues to prevent the starting-up of the EEAS if its recommendations were not accepted. It follows that it is not by chance that the consultation process with Parliament has been transformed into a *de facto* co-decision process and the representatives didn't just negotiate aspects related to budget and staffing, but other amendments as well, including those related to the organization and functioning of the EEAS. This transformation made it possible to reach an agreement in only a few months, with the intent to compensate for the delays of the entry into force of the Treaty of Lisbon.

On 8 July 2010, the European Parliament approved an amended version of the High Representative's proposal. The Parliament, and more specifically, the Socialist Group succeeded in introducing three essential priorities in the final text: (1) the aim of a coherent and efficient EEAS that increases the EU's influence in the world; (2) the preservation of the community method and the role of the Commission through close ties between the EEAS and the European Commission; and (3) the guarantee of EEAS's political and budgetary accountability to Parliament.

Furthermore, the agreement features most of Parliament's recommendations. First, that although recruitment will be based on merit, geographical and gender balance will be maintained for the appointments of Heads of EU Delegations, and the European Commission will participate in the selection processes of Heads of Delegation although the High Representative will make the final decisions.

Secondly, permanent officials of the Union will represent at least 60% of all EEAS staff, which will guarantee its community identity, and officials from national diplomatic services –to constitute one third of the staff– will be temporary agents for a duration of up to eight years with a possible extension of two years. Thus, on 1 January 2011, a total of 1,525 officials from the Commission and the Council's General Secretariat will be transferred to the EEAS and 100 new posts have been created. The EEAS will have its headquarters in Brussels, and will be made up of a central administration and 136 former Commission delegations.

Third, in addition to the central administration –organised into directorates general divided into geographic desks covering all countries and regions of the world– there will be a human rights structure at headquarters level and in the delegations as well as a department assisting the High Representative in her relations with Parliament.

Fourth, the EEAS's political and budgetary accountability to Parliament is guaranteed, with full budget discharge rights (ie, budget management) over the service as a whole. In addition, although the operational budget will be the Commission's responsibility, the High Representative has agreed that Parliament receive a document explaining which parts of the Commission budget are for external action, including the establishment plans of the EU delegations, as well as an account of expenditure per country and per mission. The EEAS administrative budget will be in a new section called 'European External Action Service'.

Fifth, EU Special Representatives and Heads of Delegations to countries and organisations which Parliament considers 'strategically important' will appear before the Foreign Affairs Committee. Furthermore, this Committee and the Budgets Committee will have stronger scrutiny over CFSP missions financed out of the EU budget. All of these points are included in the High Representative's declaration on political responsibility that was published together with the Decision in the Official Journal of the EU.

Sixth, operating under the High Representative will be an Executive Secretary-General and two Deputy Secretaries-General.

Lastly, the MEPs amended the Decision to include the obligation to submit a report to the European Parliament, the Council and the Commission on the functioning of the EEAS by the end of 2011, and a review of its organization and functioning by mid-2013.

On 26 July, the Decision process came to an end when it was adopted in the General Affairs Council and published on 3 August in the Official Journal of the EU. The nominations of the service's top management team in Brussels and the EU 'embassies' is currently being negotiated.

The only thing left now is for the European Parliament to make its recommendations on the budget regulations and EU staff regulations and amendments to the 2010 budget, areas in which it has co-decision-making powers. Nevertheless, it is expected that, as it succeeded in having most of its recommendations introduced in the Decision, Parliament will not protract the regulations processes and give its approval in the next plenary session in October. This will allow the start-up of the EEAS to take place at the end of December 2010, coinciding with the anniversary of the Treaty of Lisbon's entry into force.

Conclusions: There can be no doubt that the establishment of the EEAS is a step forward in the construction of a more solid, coherent and efficient EU at the international level. However, this does not mean that an end has been put to the diplomacy of the Member States; rather, we are witnessing the birth of a new structure that brings together the community and intergovernmental natures.

Having succeeded in putting in place a true European diplomatic system that will uphold its common external policy, the EU must now focus its efforts on new challenges that require concerted action. The challenges of global security, the effects of climate change, international terrorism, nuclear proliferation and the economic and financial crisis can only be tackled from a supranational standpoint. By acting on their own on defences and economic matters, European nations not only make themselves irrelevant in international relations, they also have to live with greater insecurity. All of the efforts that have been made to ensure that the EU plays a role in the spheres of diplomacy and security on par

with its economic power will not be worth anything if we are not able to construct common defence and economic governance policies for the EU.

There is no better way to conclude this report than by repeating the words of the person considered to be the father of European foreign policy, Javier Solana, who, in his acceptance speech for the Charlemagne award delivered in Aachen, reclaimed Europe's role 'as a global actor, speaking with a single voice and becoming a decisive factor in world peace and stability. This is my Europe', he said at the end. And so it is ours as well.

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