



BULLETIN

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The European External Action Service—Future Organization and Functioning Principles

by Ryszarda Formuszewicz

After three months of preparatory work, Catherine Ashton, the High Representative of the Union for Foreign Affairs and Security Policy, presented a Proposal for a Council decision establishing the organization and functioning of the European External Action Service (EEAS) on 25 March 2010. Although the schedule adopted by the European Council entails the completion of negotiations by the end of April 2010, finding a compromise could take longer. Adopting the decision requires both unanimity among member states and acceptance from the Commission. The European Parliament is also trying to establish its influence on future decisions.

The framework of the compromise detailing the general treaty dispositions concerning the European External Action Service (EEAS) were drawn up in the Swedish presidency's report adopted by the European Council in the fall of 2009 and formed the basis for further work on the draft decision.

The basic task of the EEAS is to support the EU High Representative (HR). The two-fold anchoring of this function as the executive organ of European foreign policy of an intergovernmental character and, at the same time, the Deputy Chairperson of the Commission responsible for external relations, predetermines the future character of the EEAS. It will be a structure functionally independent of either the Council General Secretariat (GS) or the Commission, and will be administratively and financially autonomous. It will be composed of headquarters in Brussels and EU delegations to third countries and to international organizations. Specific decisions about organization, competencies and personnel gave rise to differences between member states and disputes between EU institutions.

The Central EEAS Administration. In keeping with the proposal, managing and representing the EEAS will be entrusted to a Secretary-General with a wide range of competencies. He/she is to ensure the coordination between all departments as well as with EU delegations.

The headquarters will be divided into directorates general designated in keeping with thematic criteria (horizontal matters, such as human rights) and geographic ones (departments encompassing all the world's states and regions). The establishment of a separate directorate for administrative matters, directly subordinated to the Secretary General, is planned. In addition, the structure of the headquarters will include a legal department, one for inter-institutional relations, one for information and public diplomacy and one for internal audit and for personal data protection.

A distinct organizational division directly subordinated to the HR will be set up from the institutional structures of the common security and defence policy, transferred from the Council's General Secretariat. Those structures' specificity of functioning, recruitment and personnel status will be maintained. The European Parliament called for the creation of another Directorate-General on the basis of those units. Its competencies are also to include the Political and Security Committee which, in Ashton's proposal, is assigned to the Deputy Secretary-General for External Affairs.

EU Delegations. The proposal sets the intended organizational and personnel shape of EU delegations. The HR is to decide on their opening or closure following consultations or in agreement (in the case of closure) with the Commission and the Council. The delegations are to work closely with the diplomatic services of member states and, in particular, to exchange information. In the

sphere of extending consular protection to citizens of EU member states, the delegations will limit themselves to supporting the diplomatic services of member states upon their request.

EEAS personnel will be employed in the delegations as will be the personnel of Commission services, when the implementation of the EU budget and policies will so require. All such employees, irrespective of their status and scope of activities, will be responsible to the EEAS head of the delegation. Instructions to the delegations can be formulated by the HR and the EEAS, and also by the Commission in areas of its own competence. The delegations are obligated to assist EU institutions, particularly the EP.

Relations between the EEAS and the Commission. The report of the presidency provided that the areas of external affairs lying within the competence of the Commission, i.e., trade, developmental policy, enlargement policy (with the exclusion of geographical departments), will not be transferred to the EEAS. The scope of the transfer of specific Commission structures (and Council General Secretariat) will be spelled out in the annex to the Council decision. The establishment of the EEAS is not supposed to lead to the duplication of structures, so the division of its tasks should be as specific as possible. Conflicts of interest in the tasks' allocation have become particularly apparent in connection with the programming of financial instruments for cooperation with third countries. The proposal calls for the cooperation of the HR and the EEAS with appropriate commissioners and Commission services during the entire programming, planning and implementation cycle. In principle, the EEAS will be responsible for the preparation of the Commission's decisions in relation to the long-term strategic programming elements, while the Commission is to ensure their implementation. In the case of the European Development Fund, the Development Cooperation Instrument and the European Neighbourhood and Partnership Instrument, the decisive voice in the preparation of decisions by the EEAS and Commission services will belong to the relevant commissioners. Critics of the solutions adopted in the project see in them a threat to the cohesion of EU activeness in developmental cooperation and the neighbourhood policy. The proposed division of tasks was accepted by the Commission, and any further attempt to limit its prerogatives could be blocked due to the treaty requirement that the Commission agrees to EEAS-related decisions made by the Council.

Personnel. All EEAS members, whether originating with the Commission, the Council General Secretariat or delegated from the diplomatic service of member states will have equal employee status. The proposal provides that after full operational capability is reached, at least 1/3 of employees should originate from the services of member states (the level of the administrators). Given the existing variations in the structure of employment of member states' citizens in EU institutions, the proposal which was adopted could entrench the insufficient representation of Central European countries' citizens, especially as far as the character of the positions filled is concerned. In keeping with the proposal, nominations are to be based on merit and on the broadest possible geographical basis, while the ultimate aim is a meaningful presence of all member states' citizens in the EEAS. At the initial stage, it is planned to establish a consultative body, through which member states—in addition to the Commission and the Council General Secretariat—are to be included in the recruiting procedure. This applies especially to the preparation for the HR of so-called short lists of candidates for senior positions. This body will monitor the recruiting procedure and the employment structure at other EEAS levels. In the longer term—in the absence of a national quota system—the instrument for the control of employment policy will be the report concerning the filling of EEAS positions submitted by the HR to the Council every year. The proposal also allows for the seeking of specialists from outside their state's diplomatic service. The general mention about the need for training cadres points to the dominant role of member states' training instruments.

Prospects. Efforts to rapidly work out a compromise are reflected in the vagueness of proposed regulations and in the fact that many issues were left over to be decided at a later stage. The cause of the delays in the building of the EEAS could lay with the EP which, while it only gives its opinion the Council decision, it also co-decides about the necessary modifications of employee regulations and financial allocations. The main parliamentary political groups criticized the project for failing to take the EP's basic proposals into account.

Member states' efforts to ensure their influence on the functioning of the EEAS through the process of shaping its personnel are of central importance at the present stage. The object of the political decisions will be primarily the filling of the positions of the Secretary General and of his two deputies. The absence of quota mechanisms should incline interested member states to take action that would increase their own citizens' chances in the recruitment process. Poland should thus implement a long-term policy aimed at building up personal resources of Polish for EU institutions following the prior evaluation of its heretofore measures in this area.