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Prejudices, Challenges and Potential: an Impartial Analysis of the European External Action Service

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I. INTRODUCTION Elmar Brok MEP (EPP, DE) was the rapporteur for the European Parliament's Foreign Affairs Committee on the "draft Council decision establishing the organisation and functioning of the European External Action Service." He was also one of the three European Parliament representatives for negotiations on "the declaration of the EEAS's political responsibility with regard to the European Parliament," with the Council, the Commission, the High Representative/Vice-President of the European Commission.

At present the EU stands before an historic opportunity, to draw up a coherent foreign policy. This policy has to be implemented by means of a common tool – the new European External Action Service (EEAS) represented by the High Representative (HR) who is also Vice-President of the Commission and Chair of the Foreign Affairs Council.

Unfortunately the opportunities and potential provided by the EEAS, which started work just four months ago are often eclipsed in public debate by a certain amount of unfairness. The EEAS is often inconsiderately condemned as being a new bureaucratic monster, the mega-civil service that will gobble up tax payers' money. "Too expensive, not democratic enough ...and to what purpose?" this is the tune we hear. This prejudice originates in a certain euroscepticism which is against any kind of new development and also in ignorance and a lack of communication. This also emanates in part from a unilateral vision of matters. If we consider the EEAS from a budgetary point of view it is true that it is not without consequence for the Union's budget. However in comparison with the national foreign services and in view of its efficacy and the reduction in duplicate administrations that it will lead to no one can seriously maintain that this spending is out of all proportion. Above all the EEAS cannot be taken out of context just in order to examine one of its aspects: this distorts the overall view. It should be considered as a whole and we should bear in mind what its potential is.

In fact the vicious circle of partiality and limited vision

is dangerous because this diminishes the chances of the EEAS's success, an entity which is pertinent and even vital. The greatest threat to the EEAS is that it is not accepted. Partiality is therefore a major impediment to the EEAS's acceptance amongst the public and to the desire on the part of the political elites in the Member States to use it and bring it to life.

This is why it is all the more important to view the EEAS objectively, critically and from several standpoints. We do not need to gloss over its faults and the challenges that lie before it. We should point to its potential and its reason for existence. The citizens of Europe have to be able to draw their own impartial opinion of it and understand what it is there for. They must understand that it is not a 28th Foreign Ministry (another preconceived idea!) since the EEAS represents common European added-value.

II. THE EEAS'S PURPOSE AND POTENTIAL

Therefore, the establishment of the EEAS should also be considered from this point of view. The latter was born of three innovations introduced by the Lisbon Treaty: the appointment of a permanent President of the European Council who represents the EU abroad, similar to a Head of State or government; the appointment by the European Council with the agreement of the President of the Commission of the Union's High Representative for Foreign Affairs and the Security Policy who chairs the CFSP; the clear acknowledgement

of the Union's legal personality which provides it with decision making power on an international level.

Already in 2000 the European Parliament called for the creation of a common diplomatic service that would fulfil the Union's international role thereby raising its profile and its capability to act in the international arena. The reasons for the reform of the European external policy and the introduction of the EEAS in particular are not shrouded in mystery as some would have it. The EEAS is not some kind of playground, invented by European bureaucrats and political elites, on the contrary, the Convention on the Future of Europe and the Intergovernmental Conference for the Lisbon Treaty had already looked into what the EEAS should and could do.

The reasons behind the establishment of the EEAS lay in the fact that increasingly over the last few years the EU saw that there was still a great amount of incoherence especially with regard to foreign policy. This refers on a horizontal level to the cooperation between the various institutions and policies. Indeed the EU's external affairs were split between the intergovernmental CFSP/ESDP on the one hand and common policies, such as the Neighbourhood Policy, the Development Policy and the External Trade Policy on the other [1]. These two foreign policy areas were developed almost independent of one another. As a consequence they lacked coordination [2], which led to contradiction and divergence. For example it was possible for the Trade Commissioner to be negotiating a Trade Agreement with a third country whilst at the same time the High Representative and the Council of Foreign Ministers were criticising the very same country for infringing Human Rights.

Moreover incoherence emerged vertically between the EU's foreign policy and national foreign policies. Hence often the Member States did not agree on a common position and acted individually rather than together. It so happened that the former High Representative Javier Solana, the President of the Council, the External Affairs Commissioner, the French President and the German Chancellor would all speak about the same thing from a different standpoint. The consequence of this was that the EU and its Member States lacked influence. The most obvious example of this was with regard to the war in Iraq. Gerhard Schröder was

against it, Tony Blair supported it and finally both were impotent with regard to the USA.

In our national interest!

Parallel to this prevailing incoherence the Member States have over the last few years acknowledged that the coordination of their foreign policies was becoming vital in the face of new challenges such as the rise of new powers in China and India, climate change, terrorism, illegal immigration and energy security. They also acknowledged that they should pool the various foreign policy tools and resources in order to use the EU's potential to the full, which is indeed tremendous! With its 27 Member States the EU represents 491 million people, i.e. 8% of the world's population. Thanks to domestic markets' revenues these 8% hold one third of the world's wealth and achieve around 31% of the world GDP. Other significant figures: the EU provides around 60% of the world's development aid and has delegations in around 150 countries.

Hence due to this incoherence the EU's potential has not been focused to date. However this is necessary if we want to be heard in the international arena and impose European interests. Europe can no longer afford to be a silent partner and not employ its strength, its tools and its institutions in order to assert its interests and those of its citizens in the world. Our economies, our security and our wealth – all of these are linked together. The financial and economic crisis and international terrorism have no borders – these are two striking examples.

First and foremost this is why the development of a common foreign and security policy means the protection of national interests! If the Member States succeed in creating a common, effective external policy it will serve their own national interests and increase the sovereignty they fear losing. Sovereignty will not be lost but "pooled" to improve its efficacy. The appointment of a HR/VP and the establishment of the EEAS designed to support her are a direct conclusion to the fact that up to this date the EU was incoherent and incapable of acting in areas of external policy. The EEAS is an institutional achievement, the natural result of a pragmatic necessity of which we became aware at the end of the Cold War or at the latest on 11th September 2001: today no European State can rise to the present

1. Other common policies include strong diplomatic elements such as the Internal and Judicial Policy and also the Energy Policy and the Fisheries Policy.

2. Cf. Julia Lieb, Martin Kremer, *Der Aufbau des Europäischen Auswärtigen Dienstes: Stand und Perspektiven*, published in *Integration* 3/2010 (in German).

3. Source Eurostat, press release of 16th April 2010, http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/6-16042010-AP/DE/6-16042010-AP-DE.PDF, consulted on 20th April 2010.

challenges alone.

In view of the vital objective need for the EEAS criticising it serves little purpose. Above all there are not very many constructive counter proposals. What other solutions are there? Should we do nothing and continue implementing our national foreign policies? How could Germany and France, the two biggest, most economically powerful Member States make their voice heard alone in the international arena in the face of the USA, China or Russia? Today this has become impossible! We must understand that the EU is more than an economic community. We share a common fate!

A hybrid service

In order to understand the potential of the EEAS we must examine the role of the HR/VP. The latter comprises three jobs in one: first of all that of External Relations Commissioner, who had financial means and a significant structure at his disposal. Then we had the role of the High Representative which was linked to the Council and was entitled to negotiate but had neither means nor structure. Finally we had the role of chair of the Foreign Affairs Council, which rotated every six months at the same time as the presidency of the Council. All of these roles have been merged into one: the HR/VP. The High Representative is also responsible for the planning and functioning of the intergovernmental CFSP/CDSP; as Vice-President of the Commission he/she coordinates the various foreign policies within the Union; as chair of the Foreign Affairs Council he/she decides on the agenda and therefore has control over decision proposals.

As part of the post of "EU Foreign Minister" it seems only logical that he/she should have some kind of ministry or external service. The EEAS reflects the various roles of the HR/VP which we might also call the "double hat". It is designed to be a "hybrid service" and therefore brings together both the Commission's external services (delegations in third countries inclusive), those of the Council as well as Member States' diplomats. We should especially note that the Commission's external relations services and the leading posts of delegations in third countries were annexed to the EEAS. Likewise the Council's crisis management structures have also been integrated into the EEAS.

Hence from the beginning the EP ensured that this ser-

vice is a logical continuation of the *acquis communautaire* and that it wears a "double hat" in the true sense of the term. So that the Commission did not become a simple executive agency or a machine to drive the internal market the EP also ensured that this service was created in the true spirit of the European Community. During negotiations it insisted that the EEAS could not "re-intergovernmentalize" these areas, which are already part of community policy, The EEAS must be at the service of the EU. If we consider it to be at the service of the Member States the end result will be retrogression instead of improvement.

As a result the "double hat" was also given to the delegations and their ambassadors. This was wise because the ambassador has to represent both the EEAS and the Commission. In practice the EU delegations in third countries must be able to reconcile both the intergovernmental and community aspects of external relations in the field. They represent the EU externally and implement the EU's policies. This is how Europe can develop "a one voice policy" abroad.

The EEAS: a link

The EEAS must serve as a link between the EU's various foreign policies via the HR/VP and contribute towards forming a coherent whole. The EEAS is therefore not only a logical consequence of pragmatic necessity but also a logical development of the *acquis communautaire* in terms of the Union's external relations since it enhances coordination between a) the services in Brussels, b) between Brussels and the national capitals and c) between the EU and third countries.

With the EEAS, according to Art 13 of the TEU must be a tool and be used to support the HR/VP and which is not – and this must be made clear – a decision making body, the HR/VP now has a decisive instrument at hand to undertake a high level foreign policy; she is no longer restricted to the lowest common denominator dictated by the national policies. Above the CFSP/CDSP can now be coordinated with the community's external relations and tools without these areas becoming intergovernmental as a result. Moreover we might as a consequence expect a better, more detailed and more effective flow of information. From the EU's external delegations across the world Catherine Ashton will have information at her disposal which will be used as

a base to take precise, long term decisions at the EEAS headquarters in Brussels. In addition to this the HR/VP and the EEAS will represent the EU jointly in the third countries thereby contributing towards imposing European values, norms and interests and to enhancing cooperation with the latter with regard to anti-terrorist measures, the respect of human rights etc. With the help of the HR/VP and the EEAS it will be possible to negotiate so-called "mixed contracts" which in addition to the tangible aspect of the contract will also include conventions in areas such as criminal prosecution, Human Rights and counter terrorist measures.

This comprises a step forward in two ways: the European external policy thereby becomes more coherent and more transparent for the rest of the world. It rallies together both national and European levels of diplomacy. The EEAS can therefore act as a link, a connection from both a horizontal and vertical point of view in the pooling of competences and common interests between the institutions and between the EU and its Member States.

Through and through democratically legitimated and controlled

The EEAS is often criticised for being an undemocratic authority that is controlled by the Heads of States.

During negotiations on the EEAS the European Parliament included the creation of a service which underlies the full budgetary and budgetary control rights as well as the political control rights of the EP. In this way the EEAS is totally democratically legitimated, in spite of the fact that the EEAS was being established exterior to the Commission. And it succeeded! The EP controls the EEAS's budget and decides on the number of staff. Hence it can control the costs of the CSDP's civilian missions and the administrative costs of military operations [4].

Moreover the EP's political control over the EEAS was guaranteed in a declaration signed by the Council, the Commission, the EP and the HR/VP [5]. It was a major political success! Its significance and potential should not be underestimated. Parliamentary control further enhances the EEAS's legitimacy.

To date the HR/VP's political representation has been undertaken by the Commissioners responsible for external relations and this applies not only to exclusively community competences but also to "mixed" issues in

which the CFSP/CSDP also plays a role. Today the leaders of the EU's delegations still have to be auditioned at the EP before they take up office. Moreover the EP managed to ensure that the EEAS's personnel comprised at least 60% of Union civil servants so that the staff reflected the community method.

The EP's right to control over the HR/VP and the EEAS, coupled with the rights guaranteed by the EP treaty on the HR/V [6], provides the EP with a totally new opportunity of having greater decisive influence over intergovernmental aspects of the CFSP/CSDP. Indeed the HR/VP and the EEAS which supports him/her comprise the heart of the CFSP and the CSDP: three posts (High Representative, Vice President of the Commission and Chair of the Foreign Ministers Council) provide him/her with wide control over the CSDP. He/she decides on the agenda of the Foreign Ministers' Council; under his/her management the EEAS makes provisions for political and civilian crisis management. It was therefore vital that all of the CSDP's crisis management structures, including the EUMC, the military staff, (EUMS) and the Committee responsible for civilian aspects of crisis management (CIVCOM) which previously answered to the Council, as well as a major part of the Commission's DG External Relations (DG Relex) be integrated within the EEAS. They are now under the management of the HR/VP. Within the EEAS civilian and military goals are being developed, together with positions for the PSC and military activities are being planned via the EUMC [7]. The EP's political right of control is therefore decisive!

EEAS critics also maintained that the Council had in part secured access to community funds in exchange for the EP's right to control over the EEAS. These allegations suggested that the community funds were now in the hands of the Council and that they would be absorbed by intergovernmental structures. This is incorrect! Funding mechanisms remain with the decision making competence of the Commission which also decides on how they should be used – under the EP's legislation and budgetary control with regard to the Commission!

Neither a squandering of resources nor a "Mexican Army" [8]

We should reject another criticism: the EEAS is not another bureaucratic monster nor is it a waste of resources. It is rather the contrary – it prevents the dispersal

4. The Athena Mechanism is funded directly by the Member States but it is managed by the EU which means that administrative costs lie with the EU's budget.

5. Cf. the « Declaration with regard to the EEAS's political responsibility with regard to the European Parliament » signed by the Council, the Commission, the European Parliament and the HR/VP Catherine Ashton and annexed herewith.

6. According to the Lisbon Treaty the EP must agree to the ratification of agreements notably with third countries. According to article TEU it must also be informed and consulted with regard to all major issues and negotiations, CFSP/CSDP included. Moreover the EP appoints the President of the Commission, approves the composition of this and has the power of censure over the Commission. It can therefore oblige its members to resign, see note 1.

7. For more information cf. Marco Overhaus, Zivilmilitärisches Zusammenwirken in der Sicherheits- und Verteidigungspolitik der EU. Operative Erfahrungen, Defizite, Entwicklungsmöglichkeiten, SWP-Studien, Berlin, May 2010 (in German).

8. Press release by MEP Ingeborg Gräßle, EAD wird zur "mexikanischen Armee" - viele "Generäle", wenig "Fußtruppen", 5th October 2010. http://www.inge-graessle.de/image/inhalte/file/101005_Graessle_EAD_HH2011_COBU.pdf (in German)

of competences and leads to synergy which uses the EU's potential to the full with regard to foreign policy. Most staff members are employed today in the various distinct services of the Council and the Commission. Around 1,500 staff from the external policy units of the Council's Secretariat and the Commission has been transferred over to the EEAS. One third of the personal will be recruited by the Member States. In all only 100 new posts have been created at the EEAS's HQ and within its delegations. Given these figures we cannot talk of a bureaucratic monster especially when we see that the German Foreign Ministry comprises 13,600 staff [9]. And when we hear the EEAS described as a "Mexican Army" because of its 50 management posts which are said to be in excess; compared to the rest of the staff we might ask if it really is too much if we include the 34 heads of delegation? The EEAS may simply have a smaller base than most national diplomatic services exactly because it is more efficient than those which comprise battalions of civil servants?

III. FAILURE OR SUCCESS?

The EEAS's success now depends on its players. Firstly the skill of the HR/VP to take on his/her various roles to create a "unified foreign policy" with the help of the EEAS because as Vice-President he/she may consult the other Commissioners responsible for external relations such as the Trade Commissioner for example. His/her role as High Representative and chair of the Foreign Ministers' Council allows him/her to coordinate his/her policy with that of the Member States and to prepare his/her decisions. Hence definitions, viewpoints, strategies and common measures can then be developed commonly.

Again we should highlight that the EEAS barely has any decision making competence. Everything pertaining to common policy both in the past and present must be published by the HR/VP in his/her capacity as Vice-President of the Commission in cooperation with the relative Commissioners and he/she has to represent the decisions taken. Since he/she is also chair of the Foreign Ministers' Council he/she has a significant advantage because his/her major privilege is to be able to decide on the agenda. He/she can therefore submit proposals on an intergovernmental level thanks to

the services he/she has at his/her disposal in three areas and because of the information he/she receives from his/her embassies in 150 countries. Indeed he/she does not depend on information and analyses on the part of the Member States. His/her proposals are drawn up on a community level and thanks to the three posts she occupies he/she can put them to the Council and the Commission. Within the Council he/she has no decision making power because the Member States are sovereign. The acceptance of his/her proposals only depends therefore on their quality and the HR/VP's power of persuasion. This is why he/she was given the EEAS to use as his/her tool. The functioning of this service depends greatly on the work of the HR/VP, his/her skills and target course.

The other players such as the President of the EU and the Member States must take part in order for the EEAS to work. The EU President has representative but no operational prerogatives. This has to be clear. There should be absolutely no opposition due to quarrels over competences or because of vanity. It is therefore crucial that the HR/VP, the President of the EU and the President of the Commission work together.

In addition we have to consider that the President of the Commission has pointed to article 17 of the TEU, which stipulates that the Commission is responsible for all external relations except for the CFSP/CSDP. Article 21 also stipulates that the Commission makes proposals on all issues pertaining to external relations – again with the exception of the CFSP/CSDP. This means that policies such as the trade, enlargement, energy and even the development policies cannot be undertaken on an intergovernmental level. All areas which are not part of the competences of the future EEAS but remain in the Commission's fold need to be closely linked, according to the integration principle, by a common external policy strategy on both an executive and legislative level, in view of the cooperation between the European Parliament's International Trade Committee and the Foreign Affairs Committee.

Member States in particular must be prepared to rise above their national pride in order to stand united in the international arena. Germany and France, the EU's driving forces, have a specific responsibility in this. We shall not be able to achieve our foreign policy goals if political players do not live this solidarity and common

9. Amongst the 6,900 staff at the HQ to which we might add the 5,500 local employees in the delegations and around 1,200 staff which answer to the Foreign Affairs Ministry but affected to other portfolios either of the government, the Länder, the economy or other institutions.

identity together. To rise above these differences article 34 of the TEU (formerly article 19) provides that the Member States actively and unrestrainedly support the CFSP in a spirit of loyalty and mutual solidarity, that they respect the EU's work in this area and refrain from undertaking any action that might damage its effectiveness. The fate of the EEAS, whose establishment is both wise and responsible, depends on this matter.

Some structural imperfections still have to be corrected, for example the EEAS's organisational chart still does not clearly show how the link between civil and military crisis management is to be undertaken. All in all we have to succeed in reconciling all of our foreign policy instruments to strengthen the EU as a whole. Within the institutions we must also look into how the main players in external relations can draw up effective methods to exchange opinion so that we can employ the EU's relative force towards achieving central policy goals. It would also be good if the EEAS, like a foreign ministry, took on the role of coordinator in terms of external trade. In Germany for example the Secretary of State for European Affairs convenes a Committee every two or three months under the aegis of the Foreign Ministry in which the Secretary of State for Foreign Affairs as well as the permanent representative at the EU takes part. This is when decisions and positions are prepared and when tension between the various portfolios is settled. Moreover every Tuesday the so-called "Tuesday Committee" convenes those responsible for the portfolios in every ministry concerned by European issues [10]. This kind of approach could also be employed on a European level. In every Commission DG we should select staff who can serve as ambassadors between their portfolio and the EEAS; they should meet on a regular basis under the aegis of the EEAS. Moreover all of the Commissioners responsible for external relations as well as those responsible for internal affairs and justice should also meet under the aegis of the HR/VP. It would also be logical for the Heads of Delegation in strategically important third countries to be invited to take part in discussions and voting on measures.

At the German foreign office there is a "European coordination group" which constantly analyses how opinion is developing in European institutions so that sources of conflict can be identified and if necessary action be taken. There should be a similar group within the EEAS to ensure the link between the DG's involved in external

relations (for example the DG Development and Cooperation, the DG Enlargement but also the DG Justice and Internal Affairs). This kind of coordination group should have close links with the heads of delegation in the European embassies so they have the vital information they need for their work in the field. It is important for the coordination and exchange of information between Member States, agencies, European institutions (such as FRONTEX, Europol, Eurojust or OLAF) and the EEAS to be intense [11].

IV. CONCLUSION: EEAS NEITHER A MIRACLE CURE, NOR POISONOUS POTION

With the phrase "Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity" Robert Schuman is often quoted as being one of the founding-fathers of Europe

It is clear that the EEAS will not solve all of the problems facing the EU's foreign policy in one go – it is not a miracle cure. However it is not a poisonous potion either. Its establishment is a wise move; it sets the institutional and administrative prerequisites necessary for the emergence of a more coherent European foreign policy. This is why the EEAS should not be totally brought into question nor should it be condemned as a useless, undemocratic, spendthrift bureaucratic monster. This criticism is unjustified and counter-productive; it might even be an impediment to the functioning of the EEAS.

Of course the most recent of the EU's "babies" is not perfect; however we ought to give the EEAS and the HR/VP time to develop and to prove themselves. No one should judge their work too harshly after just four months of existence. As representative of the European citizens the European Parliament enjoys major responsibility. It will help the EEAS in its development, commenting its work, correcting it by implementing its political and budgetary rights of control. This year, by means of the Foreign Affairs Committee it will undertake the first tentative assessment of the EEAS in order to remedy any possible weaknesses. The EEAS will be the focus of a full assessment during the mid-term review in 2013.

In the meantime the Member States and the HR/VP

10. cf. Martin Grosse Hüttemann, *Die Koordination der deutschen Europapolitik*, published in *APuZ* 10/2007, pp. 39-45, p. 42. (in German)

11. For more information, cf. Elmar Brok, Christiane Ahumada Contreras, *Der Europäische Auswärtige Dienst und seine Potentiale in Bezug auf die Gemeinsame Innen- und Justizpolitik*, published in *EUCRIM*, the newspaper of the Max-Planck-Institute for International Criminal Law, 3/2010 (in German).

should not hesitate in employing the EEAS with regard to real events. As a first example of this the EU's successful development of a coherent strategy with regard to present events in the North African countries and its use of the opportunities presented by combining trade, development, neighbourhood, external relations and security policies will be the first test. In this the HR/VP must know how to use the EEAS and its delegations wisely. We witnessed the real usefulness of the EEAS as the first measures were taken with regard to Libya: the EEAS observed and analysed the situation, declarations were made on behalf of the HR/VP and on 23rd February it activated its monitoring and information centre to facilitate the evacuation of European citizens. On the initiative of the HR/VP an exploratory mission comprising EEAS leaders under the guidance of Agostino Miozzo the EEAS Managing Director for Crisis Response was sent to Libya to take stock of the situation. A coordinated approach with regard to real cases could help towards a gradual increase in confidence and solidarity. Only in this way can a real "esprit de corps" emerge within the EEAS. If we succeed in developing a coherent policy by pooling the synergies of the Commission, Council and the Member States – and all of this under parliamentary control, the EEAS will indeed become the foreign policy tool par excellence and instead of the EU

being a global payer it will become a global player effectively capable of turning its citizens' interests to good account. The tax payer will lose out if the EEAS is condemned from the beginning. If this is not the case it can but win because we need the EEAS to gain the acceptance of our interests in the international arena. As the French philosopher Paul Valéry said: "Europe will unite or it will become an annex of the Eurasian continent."



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