

Hearings of European Commissioners-designate

Federica Mogherini

High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission

Hearing due to be held on Monday 6 October at 18.30 hours.



Federica Mogherini, Italy.

Vice-President

Will guide the work of the Commissioners for European Neighbourhood Policy and Enlargement Negotiations; Trade; International Cooperation and Development; and Humanitarian Aid and Crisis Management

EP Committee responsible for the hearing

Foreign Affairs (AFET)

Biography

Born in 1973, Federica Mogherini studied international relations, with particular focus on the relationship between religion and politics in Islamic societies. Previously an adviser to her party, the Democratic Party, on foreign affairs, she was first elected to the Italian parliament in 2009, where she sat on the foreign affairs and defence committees. She was appointed Foreign Minister in February 2014.

This is one of a set of Briefings designed to give Members of the European Parliament an overview of major issues of interest in the context of the hearings of the Commissioners-designate. A full set of such Briefings can be found at:

http://epthinktank.eu/commissioner_hearings

Background

The Lisbon Treaty brought about major institutional innovations in the European Union's foreign policy aimed at achieving clearer international representation of the EU and more coherent external action, notably by creating the post of High Representative of the Union for Foreign Affairs and Security Policy, who is also Vice-President of the European Commission (HR/VP), together with the establishment of the European External Action Service (EEAS). It is a matter of debate whether the reform had significant impact on the EU's coherence and consistency in foreign affairs. In response to criticism, some note that the Treaty gave the incumbent HR/VP an 'impossible job' and that the EEAS is still in its infancy. The appointment of a new HR/VP for the 2014-19 term will bring to the fore a number of unsettled issues (reform of the EEAS, deputisation for the HR/VP, a new EU security strategy, etc.). Pressure of events in the EU's Southern and Eastern neighbourhoods may further motivate Member States (MS) and EU institutions to reinforce their common approach to external affairs.

Main Treaty bases

Article 17 of the Treaty on European Union (TEU), which refers to the HR as member of the European Commission, Article 18 on the post, role and appointment of the HR; Title V TEU (Articles 21-46) on general provisions on the Union's external action and specific provisions on the Common Foreign and Security Policy, as well as provisions on the Common Security and Defence Policy.

EP competences

Article 36 TEU covers the EP's role in CFSP/CSDP matters - the EP is to be consulted by the HR on the main aspects and basic choices of the CFSP and informed about the evolution of policies; the EP may ask questions or make recommendations to the Council and the HR. The exclusion of legislative acts (i.e. acts adopted through the legislative procedure) from the area of CFSP also excludes any formal power for the EP in the adoption of CFSP decisions. However, through its budgetary powers, including the right to amend the draft CFSP budget, the EP has influence over the conduct of CFSP. International agreements concluded by the EU in the field of CFSP only require consultation of the EP (Art. 218 TFEU).

The Lisbon Treaty's foreign policy reforms

A key aim of the Lisbon Treaty was to establish the framework and tools for the EU to 'develop a more coherent, effective and visible foreign policy.' Coming into force in December 2009, it involved important institutional and procedural changes, to remedy the lack of coherence and the overlaps in EU external policy structures and unify the representation of the EU's external action. Overall, the Treaty attempted to bridge the gap between the former 'first pillar', involving, in external relations, trade, enlargement, neighbourhood, development and humanitarian aid, with the second pillar covering the Common Foreign and Security Policy (CFSP), including the Common Security and Defence Policy (CSDP). The Treaty abolished the pillared structure and gave the EU legal personality. Nonetheless, some separation persists, with the specific (inter-governmental) characteristics of the CFSP/CSDP maintained – unanimous decision-making and limited roles for the Commission, the EP and the Court of Justice. Two Declarations (13 and 14) annexed to the Treaty maintain that the CFSP and CSDP provisions do not affect "the responsibilities of MS for the formulation and conduct of their foreign policy".

High Representative/Vice-President of the Commission

Role and mandate

The office of the High Representative of the Union for Foreign Affairs and Security Policy was created to ensure consistency between the areas of EU external action, and more visibility and stability. Although the term 'Union Minister for Foreign Affairs', used by the Constitutional Treaty, was abandoned, the mandate and role were unchanged in the Lisbon Treaty. The position is said to be 'double', or 'triple'-hatted, as it groups several posts into one: 1) the former post of **High Representative for CFSP** (established by the Amsterdam Treaty and held from 1999 to 2009 by Javier Solana); 2) the post of European **Commissioner for External Affairs**; 3) and the **chair of the Foreign Affairs Council** (FAC), previously held by the foreign affairs minister of the MS holding the rotating Presidency of the Council of the EU.

According to Article 18 TEU, the HR conducts and implements the EU's CFSP and CSDP in accordance with the mandate given by the Council, and has the right to submit proposals in these areas. The HR presides over the Foreign Affairs Council. The HR is also Vice-President of the Commission and, as such, 'shall ensure the consistency of the Union's external action' and the coordination of the EU's external action. The **mandate** of the HR/VP is to: a) negotiate international agreements relating exclusively or principally to CFSP matters; b) represent the Union on matters related to CFSP, including conducting political dialogue with third parties, expressing the EU's position in international organisations and international conferences; c) exercise authority over the EU Special Representatives (EUSRs, not formally part of the EEAS), appointed by the Council on a proposal by the HR/VP, and over the EEAS, created to assist the HR/VP in carrying out all their functions. The HR/VP takes part in the work of the European Council (Article 15(2) TEU) and chairs the Boards of CFSP and CSDP agencies. Article 36 TEU provides that the HR/VP 'shall regularly consult the European Parliament on the main aspects and basic choices of the CFSP and CSDP'.

Appointment and end of mandate

The European Council appoints the HR for a five-year term, by qualified majority, with the agreement of the President(-elect) of the Commission. Only the European Council can dismiss the HR, acting by the same procedure. As VP of the Commission, the HR/VP is subject, as part of the whole college, to the EP's consent. However, if the Commission resigns as a body, after an EP motion of censure, the HR/VP will resign from the post of Commissioner, but continue as HR. The Commission President may ask any of the Commissioners to resign (Article 17(6) TEU), but in the case of the HR/VP, the European Council's agreement is required. In November 2009, the European Council appointed Catherine Ashton as HR. She assumed her position as Commissioner in February 2010.

On 30 August 2014, Italian Foreign Minister Federica Mogherini was appointed the next HR, thus becoming de facto Vice-President-designate of the European Commission. Criticised by some as inexperienced, she has however represented Italy in the NATO and Council of Europe Parliamentary Assemblies, as well as having held several foreign affairs positions within her national political party.

The 'trio' in EU external representation

Two other EU figures, besides the HR/VP, have external representation tasks. The **President of the European Council** is also responsible for representing the EU on CFSP issues, 'at his level and in that capacity' and 'without prejudice' to the powers of the HR (Article 15(6) TEU). The **President of the European Commission** is in charge of the EU's

external representation, 'with the exception of the CFSP and other cases provided for in the Treaties' (Article 17(1) TEU). Debate has focused on the relationship between the HR/VP and the European Council President, as the Treaty gives both responsibility for representing the EU in CFSP matters, but no indication on the division of tasks. The current President of the European Council, Hermann Van Rompuy, has chosen to play a low-key role in CFSP – a pattern which will not necessarily continue in the future.

European External Action Service

The Lisbon Treaty establishes the EEAS to assist the HR in fulfilling their mandate. The **legal base** is Article 27(3) TEU: the EEAS 'shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from the relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States'. The details were addressed in subsequent negotiations between the institutions.

Following negotiations on the HR's proposal for a Council Decision in March 2010, the EP adopted its legislative resolution on 8 July 2010, together with two informal texts agreed by the HR/VP: the 'Declaration by the HR on political accountability' and the 'Statement by the HR in the plenary of the EP on the basic organisation of the EEAS'. The Council adopted on 26 July 2010 the Council Decision on the EEAS and the EEAS became functional on 1 January 2011, after consent by the EP to the Staff and Financial Regulations in October 2010. The HR/VP set the priorities for the Service: relations with the US and China, climate change, poverty eradication, crisis management and counter-terrorism.

The EEAS is a 'fully autonomous body of the EU', separate from the Council and Commission secretariats. It supports the HR/VP in fulfilling all functions and assists the Presidents of the European Council and of the Commission in conducting their external relations tasks; the EEAS also supports other EU institutions, including the EP. The EEAS comprises the central administration in Brussels (headquarters) and the 140 Union Delegations, with more than 3,400 staff in total. The EEAS **budget** is part of the EU general budget, over which the EP has full budgetary control. The EEAS contributes to developing an EU strategic framework in external relations. It also has co-responsibility for preparing the Commission's decisions on the strategic multi-annual steps in the programming cycle of the EU's external cooperation programmes, except those for pre-accession assistance and humanitarian aid; such proposals are made following Commission procedures and must be adopted by the Commission.

Union Delegations (Articles 35 TEU and 221 TFEU) now represent the EU in third countries, and play a coordinating role amongst Member States' embassies in those countries, under the authority of the HR/VP. Heads of Delegation exercise authority over all Delegation staff (both EEAS and Commission) and are exceptionally allowed to manage operational expenditure on behalf of the Commission.

Policy areas

Common Foreign and Security Policy (CFSP)

Article 24(1) TEU provides that CFSP covers all areas of foreign policy and all questions relating to the EU's security, including CSDP (see below). The CFSP remains an intergovernmental policy after Lisbon, implemented by the European Council and the Council, by unanimous decision-making, with limited exceptions. As the adoption of legislative acts is excluded under CFSP, the role of the Commission and the EP is limited, while the Court of Justice has no jurisdiction, except for monitoring respect for the

powers of EU institutions (Article 40 TEU) and reviewing the legality of CFSP decisions providing for restrictive measures against natural or legal persons (Article 275(2) TFEU).

Common Security and Defence Policy (CSDP)

As part of CFSP, CSDP covers the Union's military operations and civilian missions, as well as Member States' commitment to improve and coordinate their capabilities. The Treaty (Articles 42-46 TEU) includes the commitment to 'the progressive framing of a common Union defence policy. This will lead to a common defence', when decided unanimously by the European Council. The Treaty adds to the **Petersberg tasks** (missions the EU may perform), introduces the concepts of Permanent Structured Cooperation in defence, of a European capabilities and armaments policy and a mutual assistance clause. However, MS have not so far made full use of these opportunities. In 2013, the HR/VP presented to the European Council a report on proposals for increasing the effectiveness, visibility and impact of CSDP, enhancing capability development and strengthening the EU defence industry.

European Added Value

A study by the EP's European Added Value Unit estimates the economic costs of a lack of action at EU level in defence amount to between €26 and 130 billion annually, but settles on a figure at the lower end of the range. The study finds these costs stem mainly from the lack of integration among MS' military structures and from a fragmented European defence market. It argues that the CSDP brings added value to EU MS both in economic and non-economic terms (e.g. contributing to peace and security through its civilian missions and military operations).

Human rights and democracy promotion

The EU actively promotes human rights and democracy in its external relations, inter alia, through its financial instruments or human-rights dialogues with third countries. A Strategic Framework on Human Rights and Democracy (2012) provides for the mainstreaming of human rights into all EU policies. An EUSR for Human Rights was appointed in 2012. The HR/VP presents an annual report on human rights.

Assessment of the HR/VP and the EEAS

Observers such as Jolyon Howorth point to the lack of clarity in the HR/VP's job description, due to the absence of consensus over what was expected from the HR/VP. For them, the personality of the HR/VP has been seen as a determining factor in shaping the expectations of the post. For others (such as Niklas Helwig), the capacity of the HR to act is determined by structural factors, primarily the political will of MS and their support for the HR's policy initiatives. Some experts (for example Thomas Ramopoulos and Jed Odermatt, "EU diplomacy: measuring success in light of the Post-Lisbon Institutional framework" in *Global Power Europe - vol.1*) consider the post of HR/VP has not reached its full potential, as EU foreign policy continues to be reactive, due in part to lack of leadership and strategic vision of the HR/VP.

Political will of the Member States

Experts underline that the HR cannot do more than she or he is allowed to do by MS, although the HR has significant powers – agenda-setting, decision-shaping and implementation. Moreover, when there is no agreement between the MS, the HR legally cannot take a position. This is a structural weakness of the HR/VP position, characterised by the difficulty in reaching agreement between 28 various national interests. The appointment of Baroness Catherine Ashton – with little experience in foreign policy – was seen as lacking ambition and a demonstration of Member States'

will to remain in charge, or just the disappointing result of negotiations. For those who consider the key to successful EU diplomacy is greater convergence between Member States, the HR/VP's role is to try to forge consensus between national capitals. An assessment of European foreign policy during 2013 (European Council on Foreign Relations) sees two EU diplomatic successes (Iran and Serbia-Kosovo dialogue) as a direct consequence of the Member States' support for the HR/VP's initiatives, and an indication that the EU achieves results when 'the Member States empower EU institutions'.

Overloaded agenda

Ashton has been strongly criticised for her absence from college and Council meetings. The 2013 EEAS Review admits that the high concentration of responsibilities in a single post creates enormous workload for one person. Suggestions have focused on devising a system of deputies – either by formalising the current ad hoc arrangements or by creating formal deputy positions – to represent the HR/VP in various institutional settings.

Failures and achievements

At the beginning of her mandate, the HR/VP announced three priorities: setting up the EEAS, the Neighbourhood and strategic partners. The first years of the EEAS focused on the Neighbourhood and establishing a Comprehensive Approach as 'guiding principle for EU external policy and action'. Observers point to a mixed record. Ashton managed to establish the EEAS with backing from the MS, although she has been criticised in other respects: her reaction during the 2010 Haiti earthquake, the EU's slow response to and low profile during the Arab Spring events and for lack of leadership and strategic vision. The Libya crisis showed how easily the HR and the EEAS were side-lined by the European Council and the heads of state and government. Nevertheless, Ashton has been praised for a series of foreign policy successes, due to her personal style of diplomacy and ability to build strong personal relationships with key individuals. Ashton led the process of normalisation of relations between Serbia and Kosovo, leading to a landmark agreement in 2013, and is credited for brokering an interim agreement on nuclear issues with Iran in 2013, as chair of the talks between Iran and the E3+3/P5+1.

2013 EEAS Review

In July 2013, the HR published a review of the operation of the EEAS, putting forward a number of short- and mid-term recommendations to improve the functioning of the Service. The main themes are the need for better coordination between institutions, clarifying competences in some areas, more resources and the issue of deputising for the HR/VP. The EP made its own recommendations for the review process, in a resolution of 13 June 2013. To date, the assessment of the EEAS has also been mixed. Supporters highlight the progress made and maintain the EEAS is evolving in the right direction, towards creating the synergy needed in EU foreign policy. Others point to persistent institutional tensions between the Commission and EEAS, discontent and divisions among staff. Critics insist the EEAS brings no added value to EU diplomacy, duplicating national diplomatic services. A 2014 Court of Auditors report on the EEAS concluded there was a lack of adequate preparation in setting up the Service, shortcomings in the management of resources and still inadequate coordination between EEAS and Commission, and MS.

Foreign policy priorities at the beginning of a new mandate

Priorities for the new term

The Commission President-elect, Jean-Claude Juncker, states in his political guidelines that, to become a 'stronger global actor', the EU needs better coordination to anticipate

events, faster response mechanisms, a more effective combination of the EU's external action instruments, and an HR/VP who is a 'strong and experienced player'. Juncker sets out his intention to create deputy roles for other external relations Commissioners to assist the HR/VP, and called on MS to step up their CSDP cooperation.

Question of deputies for the HR/VP

Ashton had expressed her interest in allowing senior EEAS officials, Heads of Delegations or EUSRs to replace her at EP debates. Currently, the Foreign Minister of the Council Presidency replaces the HR/VP as chair of the FAC, and before the EP if the debate relates to CFSP. Otherwise, an external relations Commissioner may replace the HR/VP in the EP plenary. However, ensuring the representation of the HR/VP is most acutely needed for college meetings, where the cabinet member representing the HR/VP has no procedural rights. The recent allocation of portfolios unveiled by Juncker presents a college organised around 'project teams' coordinated by Vice-Presidents. The HR/VP is responsible for the project 'A stronger global actor', coordinating all the external relations commissioners. The HR/VP may ask one of them to deputise for her with respect to areas falling within her Commission competences. It seems at least one of the pleas from stakeholders – to give the new HR/VP a formal coordinating function over the external relations Commissioners – has been heeded.

Expectations from the new HR/VP

In the context of crises in Ukraine and the Middle East and difficult relations with Russia, the EU has again been criticised for not speaking with one voice. Calls have been made for 'a strong foreign policy chief able to give the EU a strong voice in the world' (Financial Times editorial, 27 August 2014), and capable of leadership over the EEAS and vis-à-vis the Member States. Such an HR/VP would continue the reform of the EU's foreign policy architecture, by clarifying remaining overlaps and setting strategic priorities. By inviting the HR to assess changes in the global environment and report in 2015, the December 2013 European Council conclusions were interpreted as mandating the next HR/VP to set a comprehensive EU foreign policy strategy. The change in EU leadership appears to be the opportunity for the EU to become a more credible international actor by addressing the challenges in the eastern and southern neighbourhood and Russia, as well as in energy security, and reinforcing CSDP.

European Parliament

Following the Lisbon Treaty, the EP has increased its influence in EU foreign policy through both formal and informal means. In particular, the EP played a significant role in setting-up the EEAS by including its views on the geographical and gender balance of the EEAS and obtaining full budgetary control over the EEAS budget. The HR/VP agreed to a 'Declaration on Political Accountability' to define the relationship with the EP. The EP votes on the annual resolution on the main aspects and basic choices of the CFSP and negotiated the adoption of the EU's external financial instruments (2014-20).

The **Declaration on Political Accountability** increases the EP's scrutiny over foreign affairs, including transparency requirements and full information for the EP at all stages of negotiating international agreements, access to classified information for some MEPs, as well as exchanges of views with diplomats nominated for high-level EEAS positions, Heads of Delegation and EUSRs before they take up their posts (although not formal hearings, the appearance of these senior diplomats before the Foreign Affairs Committee is of strategic importance to the EP).

On the agenda for the new EP term will be the continued 'parliamentarisation' of the EU's foreign policy. The EP needs to ensure commitments undertaken by the HR/VP continue to be implemented; continue negotiations on the revision of the inter-institutional agreement with the Council on access to confidential CFSP/CSDP information; and oversee the further development of the EEAS and the implementation of EU external action instruments.

Further reading

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- [EU external relations law](#) / Eeckhout, P., Oxford EU Law Library, 2011.
- [Global power Europe – Vol.1: theoretical and institutional approaches to the EU's external relations](#) / Boening A., Kremer J-F., van Loon A. (Eds.), Springer, 2013.
- [The Lisbon Treaty: a legal and political analysis](#) / Piris, J-C., Cambridge University Press, 2010, see Chapter VII 'External Affairs', pp. 238-287.
- [The EU's External Action Service: Potential for a one-voice Foreign Policy](#) / Dialer D., Neisser H., Opitz A. (Eds.), Innsbruck University Press, 2014.
- [The European External Action Service and the European Parliament](#) / Raube, K., Hague Journal of Diplomacy, 7(1), 2012, pp. 65-80.
- [Common Security and Defence Policy](#) / Factsheets on the European Union, EP, 2014.
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- Cost of Non-Europe Report, [European Common Security and Defence Policy](#) / Ballester B., European Added Value Unit, 2013.
- [The new faces of Lisbon: assessing the performance of Catherine Ashton and Herman van Rompuy on the global stage](#) / Howorth J., European Foreign Affairs Review, 2011.
- [EU foreign policy and the High Representative's capability-expectations gap: a question of political will](#) / Helwig N., European Foreign Affairs Review, 18 (2), 2013.
- [The intergovernmental constitution of the EU's foreign, security & defence executive](#) / Thym D., European Constitutional Law Review, 7, 2011, pp. 453-480.
- [For EU's Ashton, successes and failures rooted in same quiet style](#) / Raines Th., World Politics Review, 2014.
- [Reflections on the EEAS Review](#) / Duke S., European Foreign Affairs Review, 19(1), 2014.
- [The next High Representative and the EEAS: Reforming the EU foreign policy structures](#) / Berger C., von Ordanza N., SWP Comments 40, 2013.
- [A window of opportunity to upgrade EU foreign policy](#) / Lehne S., Carnegie, 2014.
- [The deputisation of the HR/VP of the Commission: making the impossible job work](#) / Schmid M., EU Diplomacy Papers, 2012.

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