



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Budgetary Control

2010/0816(NLE)

1.7.2010

OPINION

of the Committee on Budgetary Control

for the Committee on Foreign Affairs

on the proposal for a Council decision establishing the organisation and functioning of the European External Action Service
(08029/2010 – C7-0090/2010 – 2010/0816(NLE))

Rapporteur: Ivailo Kalfin

SHORT JUSTIFICATION

The draftsman shares the position that the 25 March 2010 proposal for the Council decision establishing the EEAS is to be seen as a part of a package (including the proposal itself, the proposal for amending the Financial Regulation, the proposal for amending the Staff Regulation as well as an amending Budget). As a consequence, your draftsman also maintains the position that any negotiations can only commence when all the proposals are received.

As regards the proposal on the EEAS, the draftsman endorses the general line of the main committee, in particular as expressed in the constantly updated working document by Elmar Brok (AFET) and Guy Verhofstadt (AFCO).

Therefore your draftsman has tabled corresponding amendments in the areas of the CONT committee competence, i.e., where implementation, management and control of the budget, the discharge provisions, as well as the questions of cost-effectiveness are concerned.

Apart from the support to the general line of the house, the draftsman has also tabled more specific amendments to the above-mentioned areas, in particular:

- a provision for the Heads of Delegation to be subject to the Staff Regulations (with all the rights and obligations ensuring the corresponding level of responsibility),
- a provision that the operation of delegations should be evaluated by the VP/HR or her deputy (in order to give the evaluation process a political dimension, as well as to limit the role of the SG/ Director general),
- a provision to inform the Parliament about the decisions concerning the immovable property (buildings' policy), and, finally,
- provisions for the documents and reports to be submitted by the VP/HR to the Parliament (in order to ensure that it receives all the necessary information for the discharge procedure).

AMENDMENTS

The Committee on Budgetary Control calls on the Committee on Foreign Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a decision

Recital 3 a (new)

Text proposed by the High Representative

Amendment

(3a) In its contribution to the EU's external cooperation programmes, the EEAS should seek to ensure that those programmes correspond to the objectives for external action set out in Article 21 of the TEU, in particular point (d) of

paragraph 2 thereof, and that they respect the objectives of EU development policy in line with Article 208 of the TFEU. In this context, the EEAS should also promote the fulfilment of the objectives of the European Consensus on Development and the European Consensus on Humanitarian Aid.

Amendment 2

Proposal for a decision Recital 7 a (new)

Text proposed by the High Representative

Amendment

(7a) The Commission and the EEAS will agree on modalities relating to the issue of instructions from the Commission to delegations. Those modalities should provide in particular that, when issuing instructions to delegations, the Commission is required simultaneously to send a copy of those instructions to the Head of Delegation and to the EEAS central administration.

Amendment 3

Proposal for a decision Recital 8

Text proposed by the High Representative

Amendment

(8) In order to ensure the budgetary autonomy necessary for the smooth operation of the EEAS, the Financial Regulation should be amended in order to treat the EEAS as an "institution" within the meaning of the Financial Regulation, with a specific section in the Union budget. The EEAS will be subject to the procedures regarding the discharge as provided for in Article 319 of the Treaty on the Functioning of the European Union and in Articles 145 to 147 of the Financial

(8) The Financial Regulation should be amended in order to include the EEAS within the ambit of Article 1 of the Financial Regulation, with a specific section in the Union budget. In accordance with applicable rules, and as is the case for other institutions, a part of the annual report of the Court of Auditors should be dedicated also to the EEAS and the EEAS should respond to such reports. The EEAS will be subject to the procedures regarding the discharge as provided for in Article 319 of the TFEU and in Articles 145 to 147 of

Regulation.

the Financial Regulation. *The High Representative should provide the European Parliament with all support necessary to enable the European Parliament fully to exercise its right as discharge authority. The implementation of the operational budget should be the Commission's responsibility in accordance with Article 317 of the TFEU. Decisions having a financial impact should in particular respect the responsibilities laid down in Title IV of the Financial Regulation, especially Article 75 thereof regarding expenditure operations and Articles 64 to 68 regarding liability of the financial actors.*

Amendment 4

Proposal for a decision Recital 8 a (new)

Text proposed by the High Representative

Amendment

(8a) The establishment of the EEAS should be guided by the principle of cost-efficiency aimed at budget neutrality. To that end, recourse will need to be had to transitional arrangements and a gradual build-up of capacity. Unnecessary duplication of tasks, functions and resources with other structures should be avoided. All opportunities for rationalisation should be used.

Amendment 5

Proposal for a decision Recital 12

Text proposed by the High Representative

Amendment

(12) This Decision should be reviewed in the light of experience in the beginning of 2014.

(12) The High Representative should, by mid-2013, carry out a review of the functioning and organisation of the EEAS, accompanied, if necessary, by

proposals for a revision of this Decision. The measures resulting from such revision should be adopted no later than the beginning of 2014.

Amendment 6

Proposal for a decision Article 3 – paragraph 4

Text proposed by the High Representative

4. The EEAS shall extend appropriate support and cooperation to the other institutions and bodies of the Union.

Amendment

4. The EEAS shall extend appropriate support and cooperation to the other institutions and bodies of the Union, ***in particular to the European Parliament. The EEAS may also benefit from the support and cooperation of those institutions and bodies, including agencies, as appropriate. The Commission's Internal Audit Service (IAS) shall be entitled to audit all operational budgets implemented by the Heads of Delegations. The EEAS shall provide full assistance in this regard to the IAS. In addition, the EEAS shall cooperate with the European Anti-Fraud Office (OLAF) in accordance with Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)¹. The EEAS shall in particular swiftly adopt the decision required by Regulation (EC) No 1073/1999 on terms and conditions for internal investigations. As provided for in Regulation (EC) No 1073/1999, Member States, in accordance with national provisions, and institutions shall give the necessary support to enable OLAF's agents to fulfil their task.***

¹ OJ L 136, 31.5.1999, p. 1.

Amendment 7

Proposal for a decision

Article 4 – paragraph 1

Text proposed by the High Representative

1. The EEAS shall be managed by **a** Secretary-General who will operate under the authority of the High Representative. The Secretary-General shall take all measures necessary to ensure the smooth functioning of the EEAS, including its administrative and budgetary management. He shall ensure effective coordination between all departments in the central administration as well as with the Union delegations, **and shall represent the EEAS.**

Amendment

1. The EEAS shall be managed by **an executive** Secretary-General who will operate under the authority of the High Representative. The **executive** Secretary-General shall take all measures necessary to ensure the smooth functioning of the EEAS, including its administrative and budgetary management. He *or she* shall ensure effective coordination between all departments in the central administration as well as with the Union delegations. **The High Representative shall appoint, in accordance with the normal rules of recruitment, a Director General for budget and administration who shall work under the authority of the High Representative. The Director General for budget and administration shall be responsible to the High Representative for the administrative and internal budgetary management of the EEAS. The Director General for budget and administration shall follow the same budget lines and administrative rules as those applicable under section III of Heading V of the EU general budget.**

Amendment 8

Proposal for a decision

Article 4 – paragraph 3 – subparagraph 1 – indent 2

Text proposed by the High Representative

- a directorate general for administrative, staffing, budgetary, security and communication and information system matters **under the direct authority of** the Secretary-General;

Amendment

- a directorate general for administrative, staffing, budgetary, security and communication and information system matters **working within the EEAS framework managed by** the executive Secretary-General;

Amendment 9

Proposal for a decision

Article 4 – paragraph 3 – subparagraph 1 – indent 3

Text proposed by the High Representative

- the crisis management and planning directorate, the civilian planning and conduct capability, the European Union Military Staff and the European Union Situation Centre, placed under the direct authority and responsibility of the High Representative ***in her capacity as High Representative for Foreign Affairs and Security Policy; the specificities of these structures, as well as the particularities of their functions, recruitment and the status of the staff shall be respected.***

Amendment

- the crisis management and planning directorate, the civilian planning and conduct capability, the European Union Military Staff and the European Union Situation Centre, placed under the direct authority and responsibility of the High Representative, ***assisting her in the task of conducting the Union's CFSP in accordance with the provisions of the TEU while respecting, in accordance with Article 40 thereof, the other competences of the Union.***

Amendment 10

Proposal for a decision

Article 4 – paragraph 3 – subparagraph 2 – indent 1a (new)

Text proposed by the High Representative

Amendment

- an Ethics Office reporting directly to the Secretary-General;

Amendment 11

Proposal for a decision

Article 5 – paragraph 3 – subparagraph 2

Text proposed by the High Representative

In areas where the Commission exercises the powers conferred *to* it by the Treaties, the Commission may also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation.

Amendment

In areas where the Commission exercises the powers conferred *on* it by the Treaties, the Commission may, ***in accordance with Article 221(2) of the TFEU***, also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation.

Amendment 12

Proposal for a decision Article 5 – paragraph 4

Text proposed by the High Representative

4. The Head of Delegation shall implement operational credits in relation to EU projects in the corresponding third country, where sub-delegated by the Commission, in accordance with the Financial Regulation.

Amendment

4. The Head of Delegation shall implement operational credits in relation to EU projects in the corresponding third country, where sub-delegated by the Commission, in accordance with the Financial Regulation. ***In order to ensure proper implementation of the EU budget, the Commission may issue an opinion on the short-listed candidates for posts as Heads of Delegation prior to their appointment by the High Representative. Furthermore, upon appointment, Heads of Delegation shall sign a charter, proposed by the Commission, imposing on them a legally binding obligation to fulfil all the requirements for proper budget management. The Commission shall have the right at any time to withdraw the sub-delegation of powers to implement operational credits from Heads of Delegation, thus not discharging them from any liabilities in respect of the period during which those sub-delegated powers were vested in them.***

Amendment 13

Proposal for a decision Article 5 – paragraph 4 a (new)

Text proposed by the High Representative

Amendment

4a. The Commission shall propose all the measures necessary in order to provide a full assurance that the sub-delegation of powers will not impede the discharge procedure in the European Parliament, where the Commission assumes the full responsibility for the operational budget of the EEAS.

Amendment 14

Proposal for a decision Article 5 – paragraph 5

Text proposed by the High Representative

5. The operation of each delegation shall be periodically evaluated by the Secretary General of the EEAS; evaluation shall include financial and administrative audits. The Secretary General of the EEAS may request to be assisted for this purpose by the relevant Commission departments.

Amendment

5. The operation of each delegation shall be periodically evaluated by the **executive** Secretary General of the EEAS; evaluation shall include financial and administrative audits. The **executive** Secretary General of the EEAS may request to be assisted for this purpose by the relevant Commission departments. ***In addition to internal measures taken by the EEAS, OLAF shall exercise its powers, notably by taking anti-fraud measures, in accordance with Regulation (EC) No 1073/1999.***

Amendment 15

Proposal for a decision Article 6 – paragraph 6

Text proposed by the High Representative

6. ***All appointments*** in the EEAS shall be based on merit ***and on the broadest possible*** geographical ***basis***. The staff of the EEAS shall comprise ***a meaningful*** presence of nationals from all the Member States.

Amendment

6. ***Recruitment*** in the EEAS shall be based on merit ***whilst ensuring an adequate*** geographical ***and gender balance***. The staff of the EEAS shall comprise ***an adequate*** presence of nationals from all the Member States. ***Concrete measures analogous to those provided for in Council Regulation (EC, Euratom) No 401/2004 of 23 February 2004 introducing, on the occasion of the accession of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, special temporary measures for recruitment of officials of the European Communities¹ should be taken to ensure adequate geographical representativity in all grades within the EEAS, both in headquarters and in delegations. Those measures should apply to nationals from under-represented Member States.***

Amendment 16

Proposal for a decision

Article 6 – paragraph 7

Text proposed by the High Representative

7. All members of the staff of the EEAS covered by the Staff Regulations and the Conditions of Employment of Other Servants shall have the same rights and obligations, regardless whether they are officials of the European Union or temporary agents coming from the diplomatic services of the Member States, and be treated equally, in particular as concerns eligibility to assume all positions under equivalent conditions. No distinction shall be made between temporary agents coming from national diplomatic services and officials of the European Union as regards the assignment of duties to perform in all areas of activities and policies implemented by the EEAS.

Amendment

7. Officials of the European Union and temporary agents coming from the diplomatic services of the Member States, shall have the same rights and obligations and shall be treated equally, in particular as concerns eligibility to assume all positions under equivalent conditions. No distinction shall be made between temporary agents coming from national diplomatic services and officials of the European Union as regards the assignment of duties to be performed in all areas of activities and policies implemented by the EEAS. In accordance with the provisions of the Financial Regulation, the Member States shall support the Union in the enforcement of financial liabilities resulting from any liability under Article 66 of the Financial Regulation in respect of EEAS temporary agents coming from national diplomatic services.

Amendment 17

Proposal for a decision

Article 6 a (new)

Text proposed by the High Representative

Amendment

Article 6a

Transitional provisions regarding staff

1. The relevant departments and functions in the General Secretariat of the Council and in the Commission listed in the Annex shall be transferred to the EEAS. Officials and temporary agents occupying

posts in departments or functions listed in the Annex shall be transferred to the EEAS. This shall apply mutatis mutandis to contractual and local staff assigned to such departments and functions. SNEs working in those departments or functions shall also be transferred to the EEAS with the consent of the authorities of the Member State from which they originate.

These transfers shall take effect on 1 January 2011.

In accordance with the Staff Regulations, upon being transferred to the EEAS, each official shall be assigned by the High Representative to a post in his or her function group which corresponds to his or her grade.

2. The procedures for recruiting staff for posts transferred to the EEAS which are ongoing at the date of entry into force of this Decision shall remain valid. Such procedures shall be carried on and completed under the authority of the High Representative in accordance with the relevant vacancy notices and the applicable rules of the Staff Regulations and the Conditions of Employment of Other Servants.

Amendment 18

Proposal for a decision Article 7 – paragraph 1

Text proposed by the High Representative

1. The **High Representative shall act as** authorising officer for the EEAS section of the General Budget of the European Union **and** adopt the internal rules for the management of the corresponding budget lines. **These internal rules shall lay down which of the powers of the authorising officer are delegated to the Secretary-General and the conditions under which the Secretary-General can sub delegate**

Amendment

1. The **duties of** authorising officer for the EEAS section of the General Budget of the European Union **shall be delegated in accordance with Article 59 of the Financial Regulation. The High Representative shall** adopt the internal rules for the management of the corresponding **administrative** budget lines. **Operational expenditure shall remain within the Commission section of the**

these powers.

budget.

Amendment 19

Proposal for a decision Article 7 – paragraph 1 a (new)

Text proposed by the High Representative

Amendment

1a. The EEAS budget shall be the subject of a discharge procedure by the European Parliament.

Amendment 20

Proposal for a decision Article 7 – paragraph 3

Text proposed by the High Representative

Amendment

3. As regards operational expenditure arising from the implementation of the CFSP budget, the Instrument for Stability, the Instrument for Cooperation with Industrialised Countries, the Communication and Public Diplomacy as well as the Election Observation Missions, the Commission shall be responsible for their financial management under the authority of the High Representative in her capacity as Vice-President of the Commission.

3. When drawing up estimates of administrative expenditure for the EEAS, the High Representative shall hold consultations with, respectively, the Commissioner for Development Policy and the Commissioner for Neighbourhood Policy regarding matters within their respective areas of responsibility.

Amendment 21

Proposal for a decision Article 7 – paragraph 3 a (new)

Text proposed by the High Representative

Amendment

3a. In accordance with Article 314(1) of the TFEU, the EEAS shall draw up estimates of its expenditure for the following financial year. The Commission shall consolidate those estimates in a draft budget, which may contain different estimates. The Commission may amend

the draft budget as provided for in Article 314(2) of the TFEU.

Amendment 22

Proposal for a decision Article 7 – paragraph 3 b (new)

Text proposed by the High Representative

Amendment

3b. In order to ensure budgetary transparency in the area of external action of the Union, the Commission shall transmit to the budgetary authority, together with the draft EU budget, a working document presenting, in a comprehensive way, all expenditure related to external action of the Union.

That document shall in particular contain:

- the establishment plans of the Union's Delegations displayed by grade and by category including contractual and local agents;***
- a line-by-line presentation of the expenditure related to the external action of the Union per country and per mission.***

Amendment 23

Proposal for a decision Article 7 – paragraph 4

Text proposed by the High Representative

Amendment

4. The EEAS shall be subject to the procedures regarding the discharge provided for in Article 319 of the *Treaty on the Functioning of the European Union* and in *Article 145 to 147 of the Financial Regulation*.

4. The EEAS shall be subject to the procedures regarding the discharge provided for in Article 319 of the *TFEU* and in *Articles 145 to 147 of the Financial Regulation*. ***The EEAS shall, in this context, fully cooperate with institutions involved in the discharge procedure and shall provide, as appropriate, all such additional information as may be necessary, including through attendance***

in meetings of the relevant bodies.

Amendment 24

Proposal for a decision Article 8 – paragraph 5 a (new)

Text proposed by the High Representative

Amendment

5a. Actions undertaken under the CFSP budget, the Instrument for Stability except for the part referred to in paragraph 1, the Instrument for Cooperation with Industrialised Countries, and the Communication, Public Diplomacy and Election Observation Missions shall be under the responsibility of the High Representative/EEAS. The Commission shall be responsible for their financial implementation under the authority of the High Representative in her capacity as Vice-President of the Commission. The Commission department responsible for this implementation shall be co-located within the EEAS.

Amendment 25

Proposal for a decision Article 11 – paragraph 2

Text proposed by the High Representative

Amendment

2. The terms on which immovable property is made available to the EEAS central administration and to the Union delegations shall be decided on jointly by the High Representative and the General Secretariat of the Council and the Commission, as appropriate.

2. The terms on which immovable property is made available to the EEAS central administration and to the Union delegations shall be decided on jointly by the High Representative and the General Secretariat of the Council and the Commission, as appropriate. ***Detailed information in that regard shall be provided annually to the European Parliament.***

Amendment 26

Proposal for a decision Article 12 – paragraph 2

Text proposed by the High Representative

2. The High Representative shall submit a report to the Council on the functioning of the EEAS *in 2012*.

Amendment

2. The High Representative shall submit a report to *the European Parliament*, the Council *and the Commission* on the functioning of the EEAS *no later than the end of 2011. That report shall in particular cover the implementation of the provisions of Article 5(3) and (10) and of Article 8.*

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	1.7.2010
Result of final vote	+: 18 -: 1 0: 1
Members present for the final vote	Marta Andreasen, Jean-Pierre Audy, Inés Ayala Sender, Ryszard Czarnecki, Luigi de Magistris, Martin Ehrenhauser, Jens Geier, Ville Itälä, Cătălin Sorin Ivan, Iliana Ivanova, Bogusław Liberadzki, Monica Luisa Macovei, Bart Staes, Georgios Stavrakakis
Substitute(s) present for the final vote	Zuzana Brzobohatá, Christofer Fjellner, Edit Herczog, Ivailo Kalfin, Marian-Jean Marinescu, Véronique Mathieu, Derek Vaughan
Substitute(s) under Rule 187(2) present for the final vote	Elmar Brok, Sabine Verheyen