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*Committee on Budgetary Control*

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**2010/0816(NLE)**

23.6.2010

## **DRAFT 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

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## 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 external cooperation programmes, the EEAS should seek to ensure that these programmes respond to the objectives for external action as set out in Article 21 of the TEU, in particular its paragraph***

*(2)(d), 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.*

Or. en

## **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. These modalities should foresee in particular that when the Commission will issue instructions to delegations, it will simultaneously provide a copy of these instructions to the Head of Delegation and the EEAS central administration.*

Or. en

## **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.*

*(8) The Financial Regulation should be amended in order to include the EEAS in Article 1 of the Financial Regulation, with a specific section in the Union budget. In accordance with applicable rules, and as it is the case for other institutions, a part of the annual report of the Court of*

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 Regulation.

***Auditors will be dedicated also to the EEAS and the EEAS will respond to such reports.*** 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 Regulation. ***The High Representative will provide the European Parliament with all support necessary to complete European Parliament's right as discharge authority. The implementation of the operational budget will be the Commission's responsibility in accordance with Article 317 of the TFEU. Decisions having a financial impact will 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.***

Or. en

#### **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 aiming towards budget neutrality. To this end, transitional arrangements and gradual build-up of capacity will have to be used. Unnecessary duplication of tasks, functions and resources with other structures should be avoided. All opportunities for rationalisation should be used. In addition, a number of additional posts for Member States' temporary agents will be necessary, which have to be financed within the framework of the current multi-annual framework.***

## Amendment 5

### Proposal for a decision Recital 12

*Text proposed by the High Representative*

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

*Amendment*

(12) *The High Representative should, by mid-2013, make a review of the functioning and organisation of the EEAS, accompanied, if necessary, by proposals for a revision of this Decision. Such a 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 these institutions and bodies, including agencies, as appropriate. The Internal Audit Service (IAS) of the Commission shall be entitled to investigate all operating budgets, implemented by the Heads of Delegations. The EEAS shall provide the full assistance to the IAS. In addition, the EEAS shall cooperate with the European Anti-Fraud Office (OLAF) in accordance with Regulation (EC) N° 1073/1999<sup>1</sup> of the European Parliament*

*and of the Council. It shall in particular swiftly adopt the decision required by Regulation (EC) No 1073/1999 on terms and conditions for internal investigations. As provided in Regulation (EC) No 1073/1999, Member States, in accordance with national provisions, and Union institutions shall give the necessary support to enable the OLAF's agents to fulfil their task.*

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<sup>1</sup> *Regulation (EC) No 1073/1999 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 1).*

Or. en

## 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 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. He shall follow the same budget lines and**

*administrative rules as applicable in section III of Heading V of the EU general budget.*

Or. en

## **Amendment 8**

### **Proposal for a decision**

#### **Article 4 - paragraph 3 - 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 in the EEAS framework managed by the executive*** Secretary-General;

Or. en

## **Amendment 9**

### **Proposal for a decision**

#### **Article 4 - paragraph 3 - 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, ***shall assist 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 of the TEU, the other competences of the Union.***

Or. en



## Amendment 10

### Proposal for a decision Article 5 - paragraph 3

*Text proposed by the High Representative*

3. The Head of Delegation shall receive instructions from the High Representative and the EEAS, and shall be responsible for their execution.

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*

3. The Head of Delegation shall receive instructions from the High Representative and the EEAS, and shall be responsible for their execution.

In areas where the Commission exercises the powers conferred to 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.

Or. en

## Amendment 11

### 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 assure the proper implementation of the EU budget, the Commission shall have the possibility to give an opinion on the short listed candidates for Heads of Delegation prior to their appointment by the High Representative. Furthermore upon appointment, the Heads of Delegation shall sign a charter, proposed by the Commission, with a legally binding obligation to fulfill all the requirements***

*for a proper budget management. The Commission shall have the right at any moment to lift the sub-delegation for the implementation of operational credits from the Heads of Delegation, thus not discharging them from the liabilities for the period when they had these sub-delegated powers.*

Or. en

## Amendment 12

### Proposal for a decision Article 5 - paragraph 4 a (new)

*Text proposed by the High Representative*

*Amendment*

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

Or. en

## Amendment 13

### Proposal for a decision Article 5 - paragraph 5

*Text proposed by the High Representative*

*Amendment*

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.

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 by the EEAS, OLAF shall exercise its powers, notably by conducting***

*anti-fraud measures, in accordance with Regulation (EC) No 1073/1999.*

Or. en

## **Amendment 14**

### **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 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. **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 of EEAS temporary agents coming from national diplomatic services.***

Or. en

## **Amendment 15**

### **Proposal for a decision Article 6a (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 a post in departments or functions listed in the Annex shall be transferred to the EEAS. This shall apply mutatis mutandis to contract 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 originating Member State.***

***These transfers shall take effect on 1 January 2011.***

***In accordance with the Staff Regulations, upon their transfer to the EEAS, the High Representative shall assign each official to a post in his function group which corresponds to his grade.***

***2. The procedures for recruiting staff for posts transferred to the EEAS which are on-going at the date of entry into force of this Decision shall remain valid: they 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.***

Or. en

## **Amendment 16**

### **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***

*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***

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 these powers.*

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 budget.*

Or. en

## **Amendment 17**

### **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.*

Or. en

## **Amendment 18**

### **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 their respective responsibility.*

Or. en

## **Amendment 19**

### **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 these 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.***

Or. en

## **Amendment 20**

### **Proposal for a decision**

#### **Article 7 - paragraph 3 b (new)**

*Text proposed by the High Representative*

*Amendment*

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

Or. en

## **Amendment 21**

### **Proposal for a decision**

#### **Article 7 – paragraph 4**

*Text proposed by the High Representative*

*Amendment*

4. The EEAS shall be subject to the

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.

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. *The EEAS shall, in this context, fully cooperate with institutions involved in the discharge procedure and provide, as appropriate, the additional necessary information, including through attendance in meetings of the relevant bodies.*

Or. en

## Amendment 22

### 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 the part referred to in paragraph 1, the Instrument for Cooperation with Industrialised Countries, the Communication and Public Diplomacy as well as the Election Observation Missions are 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.*

Or. en

## Amendment 23

### 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 Council on the functioning of the EEAS *no later than the end of 2011*. *This report shall in particular cover the implementation of the provisions of Article 8 and Article 5(3) and (10).*

Or. en