



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Constitutional Affairs

2009/XXXX(INI)

23.9.2009

DRAFT REPORT

on the institutional aspects of setting up the European External Action Service
(2009/XXXX(INI))

Committee on Constitutional Affairs

Rapporteur: Elmar Brok

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	3

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the institutional aspects of setting up the European External Action Service (2009/XXXX(INI))

The European Parliament,

- having regard to Article 3(5) and Articles 18, 24, 26, 27 and 47 of the Treaty on European Union in the version resulting from the Treaty of Lisbon,
 - having regard to Declaration No 15 on Article 27 of the Treaty on European Union, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon,
 - having regard to its resolution of 20 February 2008 on the Treaty of Lisbon, in particular paragraph 5, point (e) thereof¹,
 - having regard to its resolution of 5 September 2000 on a common Community diplomacy²,
 - having regard to its resolution of 14 June 2001 on the Commission communication on the development of the external service³,
 - having regard to its resolution of 26 May 2005 on the institutional aspects of the European External Action Service⁴,
 - having regard to the workshop held by its Committee on Constitutional Affairs on 10 September 2008,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Foreign Affairs (A7-XXXX/2009),
- A. whereas the form of the future European External Action Service (EEAS) is extremely important if the Union's external relations are to be rendered more coherent and efficient and if their profile is to be raised,
- B. whereas the EEAS is the consequence of three innovations introduced by the Treaty of Lisbon: the election of a non-rotating President of the European Council who is responsible for external representation of the Union at head of state or government level; the appointment by the European Council, with the agreement of the Commission President, of the High Representative of the Union for Foreign Affairs and Security Policy, who will be Vice-President of the Commission responsible for external relations;

¹ OJ C 184 E, 6.8.2009, p. 25.

² OJ C 135, 7.5.2001, p. 69.

³ OJ C 53 E, 28.2.2002, p. 390.

⁴ OJ C 117 E, 18.5.2006, p. 232.

and the explicit conferral of legal personality on the Union, designed to provide it with complete freedom of action at international level,

- C. whereas the EEAS is a logical extension of the *acquis communautaire* in the sphere of the Union's external relations, since it will result in closer coordination between the administrative units concerned as regards a common approach to the common foreign and security policy (CFSP), and of the Community's external relations conducted in accordance with the Community model; whereas the EEAS complements the Member States' diplomatic representations without calling them into question,
- D. whereas the establishment of the EEAS will help to avoid duplication, inefficiency, and wasteful use of resources as regards the Union's external action,
- E. whereas in Declaration No 15 on Article 27 of the Treaty on European Union, the governments of the Member States stipulated that the High Representative, the Commission and the Member States should begin preparatory work on the EEAS as soon as the Treaty of Lisbon had been signed,
- F. whereas after the entry into force of the Treaty of Lisbon the Vice-President of the Commission and High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) will be responsible for the coherence of the Union's external action; whereas, in keeping with that task, he will, in his or her capacity as the Commission's Vice-President, exercise the Commission's external relations responsibilities and, at the same time, implement the CFSP as instructed by the Council ('double hatting'); whereas the VP/HR will make use of the EEAS; whereas the EEAS will be staffed by officials of the Council Secretariat and of the Commission and personnel seconded from national diplomatic services,
- G. whereas, empowered by the Treaties and the right of the Community institutions to organise their own affairs, as recognised in the case-law of the Court of Justice, the Commission has, as the external action of the Communities has expanded, set up numerous delegations to third countries and to international organisations; whereas the Council has liaison offices in New York and Geneva to handle relations with the United Nations; whereas the combined input of those Commission delegations and Council liaison offices or their conversion into joint representations of the Council and Commission will create a network with approximately 5 000 staff, as one of the foundations for the creation of the EEAS,
- H. whereas the organisation and operation of the EEAS will be established by a decision of the Council, acting on a proposal from the VP/HR after consulting Parliament and after obtaining the consent of the Commission, once the Treaty of Lisbon has entered into force,
- I. whereas a number of issues of principle with regard to the form of the EEAS should be resolved in sufficiently good time to enable the Service to begin its work as soon as possible after the appointment of the VP/HR,
 - 1. Notes that, after intensive discussions on the make-up of the EEAS, the Convention proposed a model that confers important roles on Parliament and on the Commission;

points out that the special procedure which the Intergovernmental Conference eventually agreed to adopt in the Treaty of Lisbon – whereby the Council acts unanimously on a proposal from the VP/HR, after consulting the European Parliament and after obtaining the consent of the Commission – maintains the Union's interinstitutional balance and requires a solution based on consensus;

2. Reminds the Commission again that the decision to set up the EEAS cannot be taken without the agreement of the Commission; calls on the Commission, in its preparatory work on the EEAS, to put its full weight as an institution behind the objective of preserving and further developing the Community model in the Union's external relations; recalls, moreover, that the establishment of the EEAS must include agreement on the budgetary aspects;
3. Recommends that the approach with regard to the EEAS, which will be established in accordance with Articles 18, 27 and 40 of the Treaty on European Union in the version resulting from the Treaty of Lisbon, should evolve in the light of experience; considers that a body such as the EEAS cannot be completely circumscribed in advance, but must be put in place by a gradual process based on mutual trust and a growing fund of expertise and shared experience;
4. Affirms the following principles and urges the Commission, in making future proposals, to insist on compliance with those principles, in accordance with the spirit and purpose of the provisions of the Treaty of Lisbon and the spirit of the deliberations of the Convention:
 - (a) appointments to the EEAS should be made on the basis of merit, expertise and excellence in appropriate and balanced proportions from the Commission, the Council and national diplomatic services, ensuring that the VP/HR can draw on the knowledge and experience of all three in the same way;
 - (b) the EEAS should take a form which improves the uniformity of the external action of the Union and its representation in foreign relations, for which purpose in particular the units dealing with external relations in the stricter sense and senior positions in the delegations in third countries should be brought under the umbrella of the EEAS; in the course of further development, consideration can then be given to what other functions should also be assigned to the EEAS;
 - (c) it is not, however, necessary to strip the Commission Directorates-General of all their external relations responsibilities; particularly in fields where the Commission has executive powers, the integrity of current Community policies with an external dimension should be preserved; the Commission should provide a specific model for the departments concerned, such as the Directorates-General for trade, enlargement and development and relations with African, Caribbean and Pacific States, EuropeAid, the Humanitarian Aid department, and the externally oriented units of the Directorate-General for Economic and Financial Affairs;
 - (d) Commission delegations in third countries and the Council liaison offices should be merged to form 'Union embassies', headed by EEAS staff, who would be answerable to the VP/HR; specialist advisers from Commission Directorates-General should not

be prevented from being seconded to work in that framework;

5. Believes that, as a *sui generis* service from an organisational and budgetary point of view, the EEAS must be incorporated into the Commission's administrative structure; considers that the decision relating to the establishment of the EEAS should ensure in a legally binding manner, by means of the directorial powers of the VP/HR, that the Service – as laid down in the Treaty of Lisbon – is subject to the decisions of the Council in the traditional fields of external policy (CFSP and CSDP) and subject to the decisions of the College of Commissioners in the field of common external relations; believes that the EEAS should be constituted as follows:
- (a) all staff of the EEAS should have the same permanent or temporary status and the same rights and obligations irrespective of their origin, for example, there should be no difference between temporary and permanent officials as regards their duties or their position in the organisation chart; by virtue of their different origins, the status of temporary staff should be subject to the Staff Regulations of Officials of the EU, with the proviso that the authorities of origin second them to work at the EEAS in the interests of the service;
 - (b) the powers of the appointing authority for the EEAS should be assigned to the VP/HR, ensuring that service instructions are issued in accordance with the responsibilities arising from the Treaty and that the VP/HR decides on staff appointments, promotions and terminations of service;
 - (c) in the context of the instructions which follow from the responsibilities defined in the Treaties, EEAS staff should possess a certain objective independence, so that the service can perform its duties optimally; such independence could be ensured by appointments for a fixed period, such as five years, with the possibility of an extension, which could be reduced only if the member of staff violates official obligations;
 - (d) by analogy with precedents¹, responsibility for carrying out the duties of the appointing authority with regard to administering the employment of EEAS staff and implementing the decisions of the VP/HR concerning appointments, promotions and extension or termination of service should be assigned to the appropriate Commission Directorate-General;
 - (e) the decision on the setting-up of the EEAS should establish the organisational structure of the service, with the proviso that the establishment plan should be adopted as an annex to the budget of the Commission as part of the annual budget procedure, making it possible to build the service in a structured manner, keeping pace with ascertained needs;
 - (f) in his or her absence, the VP/HR should decide on a substitute on a case-by-case basis and in the light of the duties to be performed on each occasion;
6. Considers it appropriate that the EEAS should:

¹ E.g. Article 6 of the Decision establishing OLAF (OJ L 136, 31.5.1999, p. 20).

- (a) be headed by a Director-General answerable to the VP/HR, that Director-General being able to represent the VP/HR in certain cases;
 - (b) be divided into a number of directorates, each of which would be responsible for a geostrategically important field of the Union's external relations, and further directorates for security and defence policy issues, civilian crisis management, multilateral and horizontal affairs including human rights and administrative matters;
 - (c) structure the cooperation of country units in Brussels with the delegations (embassies) of the Union in third countries in the context of each directorate;
7. Believes that the decision establishing the organisation and operation of the EEAS should also stipulate that Union embassies in third countries must, whenever necessary, provide logistical and administrative support to the members of all Union institutions; considers that, subject to the consent of the VP/HR, heads of embassies should be accountable to the parliamentary committees concerned and should be required to undergo an appropriate hearing procedure before they are appointed;
 8. Proposes that enquiries be made to determine the extent to which Union embassy staff on secondment from national consular services, beyond their political and economic tasks, could gradually assume responsibility, where necessary, for consular tasks in relation to nationals of non-member countries and for tasks related to diplomatic and consular protection of Union citizens in third countries, as already provided for by Article 20 of the EC Treaty; proposes, furthermore, that consideration be given to possibilities of cooperation between Parliament officials and the EEAS;
 9. Considers that it is necessary to take further steps as regards providing Union officials with external relations training; suggests setting up a European diplomatic college which, in cooperation with appropriate bodies in the Member States, would provide Union officials and officials of the Member States who are to work in external relations functions, with appropriate training in consular and legation procedures, diplomacy and international relations, including knowledge of the history and workings of the European Union;
 10. Calls on the VP/HR to draft a proposal for a decision on the organisation and modus operandi of the EEAS taking into account the guidelines set out in this Resolution; reserves the right to adopt a position on that proposal in detail pursuant to Article 27(3) of the Treaty on European Union in the version resulting from the Treaty of Lisbon and to examine the financial aspects in the course of the budget procedure; recommends, however, that political agreement be reached with Parliament on all issues at an early stage in order to avoid valuable time being wasted on political controversies about the form to be taken by the EEAS after the entry into force of the Treaty of Lisbon;
 11. Calls on the Commission to consent to the VP/HR's proposal only once it largely complies with the guidelines set out in this Resolution or once a differing compromise solution has been arrived at by consensus through interinstitutional contacts involving Parliament;
 12. Instructs its President to forward this resolution to the Council and the Commission.

