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2009 - 2014

Committee on Constitutional Affairs

2010/0816(NLE)

5.7.2010

OPINION

of the Committee on Constitutional Affairs

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 (*): Guy Verhofstadt

(*) Associated committee – Rule 50 of the Rules of Procedure

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AMENDMENTS

The Committee on Constitutional Affairs 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 1

Text proposed by the High Representative

(1) The purpose of this Decision is to establish the organisation and functioning of the European External Action Service ("EEAS"), a functionally autonomous body of the Union under the authority of the High Representative, set up by Article 27(3) of the Treaty on European Union ("TEU"), as amended by the Treaty of Lisbon.

Amendment

(1) The purpose of this Decision is to establish the organisation and functioning of the European External Action Service ("EEAS"), a functionally autonomous body of the Union under the authority of the High Representative, set up by Article 27(3) of the Treaty on European Union ("TEU"), as amended by the Treaty of Lisbon. ***This Decision and in particular the reference to the term "High Representative" will be interpreted in accordance with his/her different functions under Article 18 of the TEU.***

(Horizontal amendment: this change applies throughout the entire text. Adopting it will necessitate corresponding changes throughout)

Amendment 2

Proposal for a decision

Recital 3

Text proposed by the High Representative

(3) The EEAS will support the High Representative in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union and to ensure the consistency of the EU's external action. The EEAS will support the High Representative in her capacity as

Amendment

(3) The EEAS will support the High Representative, ***who is also a Vice-President of the Commission and the President of the Foreign Affairs Council***, in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union and to

President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council. The EEAS will also support the High Representative in her capacity as Vice-President of the Commission, for her responsibilities within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the Commission services.

ensure the consistency of the EU's external action ***as outlined, notably, in Articles 18 and 27 TEU***. The EEAS will support the High Representative in her capacity as President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council. The EEAS will also support the High Representative in her capacity as Vice-President of the Commission, for her responsibilities within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the Commission services.

Amendment 3

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 TUE, in particular its paragraph (2)(d) and that they respect the objectives of EU development policy in line with Article 208 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 4

Proposal for a decision Recital 5

Text proposed by the High Representative

Amendment

(5) The European Parliament will fully play its role in the external action of the

(5) The European Parliament will fully play its role in the external action of the

Union, including its functions of political control as provided for in Article 14(1) of the TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with Article 36 of the TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration. The EEAS will assist the High Representative in this regard.

Union, including its functions of political control as provided for in Article 14(1) of the TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with Article 36 of the TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration. The EEAS will assist the High Representative in this regard.

Specific arrangements should be made with regard to access for Members of European Parliament to classified documents and information in the area of CFSP. Until the adoption of such arrangements, existing provisions under the 2002 Interinstitutional Agreement on classified documents and information in the area of ESDP will apply.

Amendment 5

Proposal for a decision Recital 7

Text proposed by the High Representative

(7) Provisions should be adopted relating to the staff of the EEAS and their recruitment. For matters relating to its staff the EEAS should be treated as an institution within the meaning of the Staff Regulations. ***In accordance with Article 27(3) of the TEU, the EEAS will comprise officials from the General Secretariat of the Council and the Commission as well as personnel seconded from the diplomatic services of the Member States.*** The High Representative will be the Appointing Authority, in relation both to officials subject to the Staff Regulations of ***Officials of the European Communities ("Staff Regulations")*** and agents subject to the Conditions of Employment of Other Servants. ***The High Representative will***

Amendment

(7) Provisions should be adopted relating to the staff of the EEAS and their recruitment ***where such provisions are necessary to establish the organisation and functioning of the EEAS. In parallel, necessary amendments should be made, in accordance with Article 336 of the TFEU, to the Staff Regulations of Officials of the European Communities ("Staff Regulations") and the Conditions of Employment of Other Servants of those Communities ("CEOS") without prejudice to Article 298 of the TFEU.*** For matters relating to its staff the EEAS should be treated as an institution within the meaning of the Staff Regulations. The High Representative will be the Appointing Authority, in relation both to officials

also have authority over the Seconded National Experts ("SNEs") in post in the EEAS. The number of officials and servants of the EEAS will be decided each year as part of the budgetary procedure and will be reflected in the establishment plan.

subject to the Staff Regulations and agents subject to the Conditions of Employment of Other Servants. The number of officials and servants of the EEAS will be decided each year as part of the budgetary procedure and will be reflected in the establishment plan.

Amendment 6

Proposal for a decision Recital 7 a (new)

Text proposed by the High Representative

Amendment

(7a) The staff members of the EEAS will carry out their duties and conduct themselves solely with the interest of the Union in mind.

Amendment 7

Proposal for a decision Recital 7 b (new)

Text proposed by the High Representative

Amendment

(7b) Recruitment will be based on merit whilst ensuring adequate geographical and gender balance. The staff of the EEAS should comprise a meaningful presence of nationals from all the Member States. The review foreseen in 2013 should also cover this issue, including, as appropriate, suggestions for additional specific measures to correct possible imbalances.

Amendment 8

Proposal for a decision

Recital 7 c (new)

Text proposed by the High Representative

Amendment

(7c) In accordance with Article 27(3) of the TEU, the EEAS will comprise officials from the General Secretariat of the Council and the Commission as well as personnel coming from the diplomatic services of the Member States. For that purpose, the relevant departments and functions in the General Secretariat of the Council and in the Commission will be transferred to the EEAS, together with officials and temporary agents occupying a post in such departments or functions. Before the 1st of July 2013, the EEAS will recruit exclusively officials originating from the General Secretariat of the Council and the Commission as well as staff coming from the diplomatic services of the Member States. After that date, all officials and other servants of the European Union should be able to apply for vacant posts in the EEAS.

Amendment 9

Proposal for a decision

Recital 7 d (new)

Text proposed by the High Representative

Amendment

(7d) The EEAS may, in specific cases, have recourse to specialised seconded national experts (SNEs), over which the High Representative will have authority. Seconded National Experts in post in the EEAS will not be counted in the one third which staff from Member States should represent when the EEAS will reach its full capacity. Their transfer in the phase of setting up of the EEAS will not be automatic and will be made with the consent of the authorities of the

originating Member States. By the expiry of the contract of an SNE transferred to the EEAS under article 6bis, the function will be converted into a temporary agent post in cases where the function performed by the SNE corresponds to a function normally carried out by staff at AD level, provided that the necessary post is available under the establishment plan.

Amendment 10

Proposal for a decision Recital 7 e (new)

Text proposed by the High Representative

Amendment

(7e) The Commission and the EEAS will agree on modalities relating to the issue of instructions from the Commission to delegations. These should foresee in particular that when the Commission will issue instructions to delegations, it will simultaneously provide a copy of these to the Head of Delegation and the EEAS central administration.

Amendment 11

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 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 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

Regulation.

in Articles 145 to 147 of the Financial Regulation. *She 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.*

Amendment 12

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 13

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 14

Proposal for a decision

Article 2 – paragraph 1 – introductory wording

Text proposed by the High Representative

1. The EEAS shall support the High Representative:

Amendment

1. The EEAS shall support the High Representative *in fulfilling her mandates as outlined, notably, in Articles 18 and 27 TEU:*

Amendment 15

Proposal for a decision

Article 2 – paragraph 1 – indent 1

Text proposed by the High Representative

- in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union and to ensure the consistency of the EU's external action;

Amendment

- in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union, *including the Common Security and Defence Policy ("CSDP"), to contribute by her proposals to the development of that policy, which she shall carry out as mandated by the Council* and to ensure the consistency of the EU's external action;

Amendment 16

Proposal for a decision Article 2 – paragraph 2

Text proposed by the High Representative

2. The EEAS shall assist the President of the Commission, the Commission **and the President of the European Council**.

Amendment

2. The EEAS shall assist **the President of the European Council**, the President of the Commission, **and the Commission, in the exercise of their respective functions in the area of external relations**.

Amendment 17

Proposal for a decision Article 3 – paragraph 1

Text proposed by the High Representative

1. The EEAS shall work in cooperation with the General Secretariat of the Council and the services of the Commission, **as well as with the diplomatic services of the Member States**, in order to ensure consistency between the different areas of the Union external action and between these and its other policies.

Amendment

1. The EEAS shall **support and** work in cooperation with the **diplomatic services of the Member States as well as with the** General Secretariat of the Council and the services of the Commission, in order to ensure consistency between the different areas of the Union external action and between these and its other policies.

Amendment 18

Proposal for a decision Article 3 – paragraph 2

Text proposed by the High Representative

2. The EEAS and the services of the Commission shall consult each other on all matters relating to the external action of the Union. The EEAS shall take part in the preparatory work and procedures relating to acts to be prepared by the Commission in this area. This paragraph shall be implemented in accordance with Chapter 1 of Title V of the TEU, and with Article 205 of the Treaty on the Functioning of the European Union ("TFEU").

Amendment

2. The EEAS and the services of the Commission shall consult each other on all matters relating to the external action of the Union **in the exercise of their respective functions except on matters covered by CSDP**. The EEAS shall take part in the preparatory work and procedures relating to acts to be prepared by the Commission in this area. This paragraph shall be implemented in accordance with Chapter 1 of Title V of the TEU, and with Article 205

of the Treaty on the Functioning of the European Union ("TFEU").

Amendment 19

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 EEAS internal auditor will cooperate with the internal auditor of the Commission to ensure the consistency of audit policy, with particular reference to the Commission's responsibility for operational expenditure. In addition, the EEAS shall cooperate with the European Office for the Fight against Fraud (OLAF) in accordance with Regulation (EC) N° 1073/1999. It shall in particular swiftly adopt the decision required by this Regulation on terms and conditions for internal investigations. As provided in this Regulation, Member States, in accordance with national provisions, and institutions shall give the necessary support to enable the OLAF's agents to fulfil their task.***

Amendment 20

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.

Amendment

1. The EEAS shall be managed by ***an executive*** Secretary-General who will operate under the authority of the High

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**.

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.

Amendment 21

Proposal for a decision Article 4 – paragraph 2

Text proposed by the High Representative

2. The Secretary-General shall be assisted by two Deputy Secretaries-General.

Amendment

2. The **executive** Secretary-General shall be assisted by two Deputy Secretaries-General.

Amendment 22

Proposal for a decision Article 4 – paragraph 3 – subparagraph 1 – introductory wording

Text proposed by the High Representative

3. The central administration of the EEAS shall be organised in directorates general. These shall include:

Amendment

3. The central administration of the EEAS shall be organised in directorates general. These shall **in particular** include:

Amendment 23

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 in the EEAS framework managed by the executive Secretary-General. 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. He 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 the part of Section III of the EU budget which falls under Heading V of the Multiannual Financial Framework;

Amendment 24

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, ***shall assist her in the task of conducting the Union's CFSP in accordance with the provisions of the Treaty while respecting, in accordance with Article 40 of the TEU, the other competences of the Union.***

The specificities of these structures, as well as the particularities of their functions, recruitment and the status of the staff shall be respected.

Full coordination between all the structures of the EEAS shall be ensured.

Amendment 25

Proposal for a decision

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

Text proposed by the High Representative

Amendment

- a strategic policy planning department;

Amendment 26

Proposal for a decision

Article 4 – paragraph 3 – subparagraph 2 – indent 1

Text proposed by the High Representative

Amendment

- a legal department under the **direct** administrative authority of the Secretary-General which shall work closely with the Legal Services of the Council and the Commission;

- a legal department under the administrative authority of the **executive** Secretary-General which shall work closely with the Legal Services of the Council and the Commission;

Amendment 27

Proposal for a decision

Article 4 – paragraph 4

Text proposed by the High Representative

Amendment

4. The High Representative shall designate **from among EEAS staff members** the chairpersons of Council preparatory bodies that are chaired by a representative of the High Representative, including the chair of the Political and Security Committee.

4. The High Representative shall designate the chairpersons of Council preparatory bodies that are chaired by a representative of the High Representative, including the chair of the Political and Security Committee, **in accordance with the modalities set out in Annex II of the COUNCIL DECISION of 1 December 2009 laying down measures for the implementation of the European Council Decision on the exercise of the Presidency of the Council, and on the chairmanship of preparatory bodies of the Council, (2009/908/EU)¹.**

¹ OJ L 322, 9.12.2009, p. 28.

Amendment 28

Proposal for a decision Article 5 – paragraph 1

Text proposed by the High Representative

1. The decision to open a delegation shall be adopted by the High Representative, ***after consulting the Council and the Commission. The decision to close a delegation shall be adopted by the High Representative,*** in agreement with the Council and the Commission.

Amendment

1. The decision to open ***or close*** a delegation shall be adopted by the High Representative, in agreement with the Council and the Commission.

Amendment 29

Proposal for a decision Article 5 – paragraph 2 – subparagraph 1

Text proposed by the High Representative

2. Each Union delegation shall be ***led by*** a Head of Delegation.

Amendment

2. Each Union delegation shall be ***placed under the authority of*** a Head of Delegation.

Amendment 30

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 to it by the Treaties, the Commission may, ***in accordance with article 221(2) TFEU,*** also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation.

Amendment 31

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 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. ***In addition to internal measures by the EEAS, OLAF shall exercise its powers, notably by conducting anti-fraud measures, in accordance with Regulation (EC) N° 1073/1999.***

Amendment 32

Proposal for a decision Article 5 – paragraph 7

Text proposed by the High Representative

7. Union delegations shall have the capacity to service the needs of other EU institutions, in particular ***the European Council and*** the European Parliament, in their ***official*** contacts with the international organisations or third countries to which ***they*** are accredited.

Amendment

7. Union delegations shall have the capacity to service the needs of other EU institutions, in particular the European Parliament, in their contacts with the international organisations or third countries to which ***the delegations*** are accredited.

Amendment 33

Proposal for a decision Article 5 – paragraph 8

Text proposed by the High Representative

8. The Head of Delegation shall have the power to represent the EU in the country where the delegation is ***located***, in particular for the conclusion of contracts and being a party to legal proceedings.

Amendment

8. The Head of Delegation shall have the power to represent the EU in the country where the delegation is ***accredited***, in particular for the conclusion of contracts and being a party to legal proceedings.

Amendment 34

Proposal for a decision Article 5 – paragraph 9

Text proposed by the High Representative

9. The Union delegations shall work in close cooperation with the diplomatic services of the Member States. ***They shall, on a reciprocal basis, provide all relevant information.***

Amendment

9. The Union delegations shall work in close cooperation ***and share information*** with the diplomatic services of the Member States.

Amendment 35

Proposal for a decision Article 5 – paragraph 10

Text proposed by the High Representative

10. The Union delegations shall ***have the capacity to***, upon request by Member States, support the Member States in their diplomatic relations and in their role of providing consular protection to Union citizens in third countries.

Amendment

10. The Union delegations shall, ***acting in accordance with Art. 35, 3rd subparagraph of the EU Treaty and*** upon request by Member States, support the Member States in their diplomatic relations and in their role of providing consular protection to Union citizens in third countries.

Amendment 36

Proposal for a decision Article 6 – paragraph -1 (new)

Text proposed by the High Representative

Amendment

-1. The provisions set out in this Article, except paragraph 2, shall apply without prejudice to the Staff Regulations of Officials of the European Communities ("Staff Regulations") and the Conditions of Employment of Other Servants of those Communities ("CEOS"), including the amendments made to these rules, in accordance with Article 336 of the TFEU,

in order to adapt them to the needs of the EEAS.

Amendment 37

Proposal for a decision Article 6 – paragraph 1

Text proposed by the High Representative

1. The EEAS shall comprise:

(a) officials and other servants of the European Union, including personnel from the diplomatic services of the Member States appointed as temporary agents;

(b) if necessary, and on a temporary basis, specialised seconded national experts (SNEs).

Amendment

1. The EEAS shall comprise officials and other servants of the European Union, including personnel from the diplomatic services of the Member States appointed as temporary agents¹;

The Staff Regulations and the CEOS shall apply to this staff.

¹ *Article 98(1), second subparagraph of the Staff Regulations will read as follows : “As from 1 July 2013, the Appointing Authority shall also consider the applications of officials from other institutions without giving priority to any of these categories.”*

Amendment 38

Proposal for a decision Article 6 – paragraph 1 a (new)

Text proposed by the High Representative

Amendment

1a. If necessary, the EEAS may, in specific cases, have recourse to a limited number of specialised seconded national experts (SNEs).

The High Representative shall adopt the rules, equivalent to those laid down in Council Decision 2003/479/EC as amended by Council Decision 2007/829/EC of 5 December 2007¹, under which SNEs are put at the disposal of the

EEAS in order to provide specialised expertise.

¹ OJ L 327, 13 December 2007, page 10.

Amendment 39

Proposal for a decision Article 6 – paragraph 2

Text proposed by the High Representative

2. The staff members of the EEAS shall carry out their duties and conduct themselves solely with the interests of the Union in mind. Without prejudice to Articles 2(1), third ***subparagraph***, 2(2) and 5(3), they shall neither seek nor take instructions from any Government, authority, organisation or person outside the EEAS or any body or person other than the High Representative.

Amendment

2. The staff members of the EEAS shall carry out their duties and conduct themselves solely with the interests of the Union in mind. Without prejudice to Articles 2(1), third ***indent***, 2(2) and 5(3), they shall neither seek nor take instructions from any Government, authority, organisation or person outside the EEAS or any body or person other than the High Representative. ***In accordance with the second paragraph of Article 11 of the Staff Regulations, the EEAS staff may not accept any payments of any kind whatever from any other source outside the EEAS.***

Amendment 40

Proposal for a decision Article 6 – paragraph 3

Text proposed by the High Representative

3. The Staff Regulations, the Conditions of Employment of Other Servants and the rules adopted jointly by the European Union institutions for the purpose of applying the Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the EEAS referred to in paragraph 1, subparagraph (a).

Amendment

deleted

Amendment 41

Proposal for a decision Article 6 – paragraph 4

Text proposed by the High Representative

4. The High Representative shall adopt the rules, equivalent to those laid down in Council Decision 2003/479/EC of 5 December 2007, under which SNEs are put at the disposal of the EEAS in order to provide specialised expertise.

Amendment

deleted

Amendment 42

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 adequate** geographical **and gender balance**. The staff of the EEAS shall comprise a meaningful presence of nationals from all the Member States.

Amendment 43

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

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

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.

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.*

Amendment 44

Proposal for a decision Article 6 – paragraph 8

Text proposed by the High Representative

Amendment

8. 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 also apply 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.

deleted

These transfers shall take effect on the day of the adoption of the amending Budget of the European Union providing for the corresponding posts and appropriations in the EEAS.

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.

Amendment 45

Proposal for a decision Article 6 – paragraph 9

Text proposed by the High Representative

Amendment

9. The High Representative shall establish

9. The High Representative shall establish

the selection procedures for EEAS staff, which shall be based on merit ***and on the broadest possible geographical basis, in conformity with the Staff Regulations and the Conditions of Employment of Other Servants, with due regard for gender balance.***

the selection procedures for EEAS staff, which shall be ***undertaken through a transparent procedure*** based on merit ***with the objective of securing the services of staff of the highest standard of ability, efficiency and integrity while ensuring adequate geographical balance, a need for a meaningful presence of nationals from all EU Member States in the EEAS and aiming towards gender balance.***

Representatives of the Member States, the General Secretariat of the Council and the Commission shall be involved in the recruitment procedure for vacant posts in the EEAS¹.

¹ See draft declaration relating to the appointment procedure at the end.

Amendment 46

Proposal for a decision Article 6 – paragraph 9 a (new)

Text proposed by the High Representative

Amendment

9a. When the EEAS has reached its full capacity, staff from Member States, as referred to in paragraph 1, first subparagraph, should represent at least one third of all EEAS staff at AD level. Likewise, permanent EU officials should represent at least 60% of all EEAS staff at AD level, including staff coming from the diplomatic services of the Member States, who have become permanent EU officials, in accordance with the provisions of the Staff Regulations. Each year, the High Representative shall present a report to the European Parliament and the Council on the occupation of posts in the EEAS.

Amendment 47

Proposal for a decision Article 6 – paragraph 9 b (new)

9b. The High Representative shall lay down the rules on mobility so as to ensure that the members of the staff of the EEAS are subject to a high degree of mobility. Specific modalities shall apply to the personnel referred to in Article 4 (3), third indent. In principle, all EEAS staff shall periodically serve in Union delegations. The High Representative shall establish rules to that effect.

Amendment 48

Proposal for a decision Article 6 – paragraph 10

Text proposed by the High Representative

Amendment

10. 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.

10. In accordance with the applicable provisions of its national law, each Member State shall provide its officials who have become temporary agents in the EEAS with a guarantee of immediate reinstatement at the end of their period of service to the EEAS. This period of service, in accordance with the provisions of Article 50b of CEOS, shall not exceed eight years, unless, it is extended for a maximum period of two years in exceptional circumstances and in the interest of the service¹.

In the course of setting up the EEAS, representatives of the Member States, the General Secretariat of the Council and the Commission shall be involved in the recruitment procedure for vacant posts in the EEAS.

EU officials serving in the EEAS shall have the right to apply for posts in their institution of origin on the same terms as internal applicants.

The staff of the EEAS central administration shall be made up of officials and other servants from, respectively, 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.

When the EEAS has reached its full capacity, staff from Member States should represent at least one third of all EEAS staff at AD level. Each year, the High Representative shall present a report to the Council on the occupation of posts in the EEAS.

¹Article 50b(2) of CEOS will read as follows : “2. They may be engaged for a maximum period of four years. Contracts may be renewed for a maximum period of four years. In total, engagement should not exceed eight years. However, in exceptional circumstances and in the interest of the service, at the end of the eighth year, the contract may be extended for a maximum period of two years. A renewal or extension shall be granted on condition that the secondment from the national diplomatic service is extended for the period of renewal.”

Amendment 49

**Proposal for a decision
Article 6 – paragraph 11**

Text proposed by the High Representative

11. The High Representative shall lay down the rules on mobility so as to ensure that the members of the staff of the EEAS are subject to a sufficient degree of mobility. Specific modalities shall apply to the personnel referred to in Article 4 (3), third hyphen. In principle, all EEAS staff shall periodically serve in Union delegations. The High Representative shall establish rules to that effect.

Amendment

11. Steps shall be taken in order to provide EEAS staff with adequate common training, building in particular on existing national and EU practices and structures. The High Representative shall take appropriate measures to that effect within the year following the entry into force of this Decision.

Amendment 50

**Proposal for a decision
Article 6 – paragraph 12**

Text proposed by the High Representative

Amendment

12. In accordance with the applicable provisions of its national law, each Member State shall provide its officials who have become temporary agents in the EEAS with a guarantee of immediate reinstatement at the end of their period of secondment to the EEAS. Beyond two consecutive secondments, each Member State may decide to prolong such guarantee in accordance with the applicable provisions of its national law. EU officials serving in the EEAS shall have the right to apply for posts in their institution of origin on the same terms as internal applicants.

deleted

Amendment 51

Proposal for a decision Article 6 – paragraph 13

Text proposed by the High Representative

Amendment

13. Steps shall be taken in order to provide EEAS staff with adequate common training, building in particular on existing national practices and structures. The High Representative shall take appropriate measures to that effect within the year following the entry into force of this Decision.

deleted

Amendment 52

Proposal for a decision Article 6 a (new)

Text proposed by the High Representative

Amendment

Article 6 a

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.

Amendment 53

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*

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 *administrative* budget lines. *Operational expenditure shall remain within the*

the Secretary-General can sub delegate these powers.

Commission section of the budget.

Amendment 54

Proposal for a decision Article 7 – paragraph 3

Text proposed by the High Representative

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.

Amendment

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

Amendment 55

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

Text proposed by the High Representative

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.

Amendment

Amendment 56

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.

Amendment 57

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 Treaty on the Functioning of the European Union and in Article 145 to 147 of the Financial Regulation. ***The EEAS will, 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.***

Amendment 58

Proposal for a decision Article 8 – title

Text proposed by the High Representative

Amendment

Programming

External Action Instruments and programming

Amendment 59

Proposal for a decision Article 8 – paragraph 1

Text proposed by the High Representative

1. ***In the framework of the*** management of EU external cooperation programmes, ***which remain*** under the responsibility of the Commission, ***the High Representative and the EEAS shall contribute to the programming and management cycle for the following geographic and thematic instruments, on the basis of the policy objectives set out in the said instruments:***

- ***the Development Cooperation Instrument,***
- ***the European Development Fund,***
- ***the European Instrument for Democracy and Human Rights,***
- ***the European Neighbourhood and Partnership Instrument,***
- ***the Instrument for Cooperation with Industrialised Countries,***
- ***the Instrument for Nuclear Safety Cooperation.***

Amendment 60

Proposal for a decision Article 8 – paragraph 2

Text proposed by the High Representative

2. ***In accordance with Article 3, throughout the whole cycle of programming, planning and implementation of these instruments, the High Representative and the EEAS shall work with the relevant members and services of the Commission. All proposals for decision will be prepared through Commission procedures and submitted to the Commission for decision.***

Amendment

1. ***The*** management of EU external cooperation programmes ***is*** under the responsibility of the Commission ***without prejudice to role of the Commission and of the EEAS in programming as set out in the following paragraphs.***

Amendment

2. ***The High Representative shall ensure overall political coordination of the EU's external action, ensuring the unity, consistency and effectiveness of the EU's external action in particular through the external assistance instruments:***

- *the Development Cooperation Instrument,*
- *the European Development Fund,*
- *the European Instrument for Democracy and Human Rights,*
- *the European Neighbourhood and Partnership Instrument,*
- *the Instrument for Cooperation with Industrialised Countries,*
- *the Instrument for Nuclear Safety Cooperation,*
- *the Instrument for Stability, regarding the assistance foreseen in article 4 of Regulation (EC) n. 1717/2006 of 15 November 2006.*

Amendment 61

Proposal for a decision Article 8 – paragraph 3

Text proposed by the High Representative

3. The EEAS shall *in particular* have responsibility for preparing the following Commission decisions *on* the strategic, multi-annual steps within the programming cycle:

- (i) country allocations to determine the global financial envelope for each region (subject to the indicative breakdown of the financial perspectives). Within each region, a proportion of funding will be reserved for regional programmes;
- (ii) country and regional strategic papers (CSPs/RSPs);
- (iii) national and regional indicative programmes (NIPs/RIPs).

Amendment

3. *In particular*, the EEAS shall *contribute to the programming and management cycle for the said instruments, on the basis of the policy objectives set out therein. It shall* have responsibility for preparing the following Commission decisions *regarding* the strategic, multi-annual steps within the programming cycle:

- (i) country allocations to determine the global financial envelope for each region (subject to the indicative breakdown of the financial perspectives). Within each region, a proportion of funding will be reserved for regional programmes;
- (ii) country and regional strategic papers (CSPs/RSPs);
- (iii) national and regional indicative programmes (NIPs/RIPs).

In accordance with Article 3, throughout

the whole cycle of programming, planning and implementation of these instruments, the High Representative and the EEAS shall work with the relevant members and services of the Commission without prejudice to Article 1(3). All proposals for decision will be prepared through Commission procedures and submitted to the Commission for decision.

Amendment 62

Proposal for a decision Article 8 – paragraph 4

Text proposed by the High Representative

4. With regard to the European Development Fund and the Development Cooperation Instrument, any proposals, including those for changes in the basic regulations and the programming documents in paragraph 3 above, shall be prepared by the relevant services in the EEAS and in the Commission under the ***direct supervision and guidance*** of the Commissioner responsible for Development Policy and then jointly submitted with the High Representative for decision by the Commission.

Amendment

4. With regard to the European Development Fund and the Development Cooperation Instrument, any proposals, including those for changes in the basic regulations and the programming documents in paragraph 3 above, shall be prepared ***jointly*** by the relevant services in the EEAS and in the Commission under the ***responsibility*** of the Commissioner responsible for Development Policy and then jointly submitted with the High Representative for decision by the Commission.

Thematic programmes, except the European Instrument for Democracy and Human Rights, as well as the Instrument for Nuclear Safety Cooperation and the part of the Instrument for Stability referred to in the seventh indent of paragraph 2, shall be prepared by the appropriate Commission Service under the guidance of the Commissioner responsible for Development and presented to the College in agreement with the High Representative and other relevant Commissioners.

Amendment 63

Proposal for a decision Article 8 – paragraph 5

Text proposed by the High Representative

5. With regard to European Neighbourhood and Partnership Instrument, any proposals, including those for changes in the basic regulations and the programming documents in paragraph 3 above, shall be prepared by the relevant services in the EEAS and in the Commission under the ***direct supervision and guidance*** of the Commissioner responsible for Neighbourhood Policy and then jointly submitted with the High Representative for decision by the Commission.

Amendment

5. With regard to European Neighbourhood and Partnership Instrument, any proposals, including those for changes in the basic regulations and the programming documents in paragraph 3 above, shall be prepared ***jointly*** by the relevant services in the EEAS and in the Commission under the ***responsibility*** of the Commissioner responsible for Neighbourhood Policy and then jointly submitted with the High Representative for decision by the Commission.

Amendment 64

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 the seventh indent of paragraph 2, 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 Commission¹. The Commission department responsible for this implementation shall be co-located with the EEAS.

¹ The Commission will make a declaration to the effect that the High Representative will have the necessary authority in this area, in full respect of

Amendment 65

Proposal for a decision Article 8 – paragraph 6

Text proposed by the High Representative

Amendment

6. Thematic programmes shall be prepared by the appropriate Commission Service under the guidance of the Commissioner responsible for Development and presented to the College in agreement with the High Representative and other relevant Commissioners.

deleted

Amendment 66

Proposal for a decision Article 9 – paragraph 1

Text proposed by the High Representative

Amendment

1. The High Representative shall decide on the security rules for the EEAS and take all appropriate measures in order to ensure that the EEAS manages effectively the risks to its staff, physical assets and information, and that it fulfils its duty of care responsibilities. Such rules shall apply to all EEAS staff, and all staff in Union Delegations, regardless of their administrative status or origin.

1. The High Representative shall, **after consulting the Committee referred to in Council Decision 2001/264/EC**, decide on the security rules for the EEAS and take all appropriate measures in order to ensure that the EEAS manages effectively the risks to its staff, physical assets and information, and that it fulfils its duty of care responsibilities. Such rules shall apply to all EEAS staff, and all staff in Union Delegations, regardless of their administrative status or origin.

Amendment 67

Proposal for a decision Article 9 – paragraph 1 a (new)

Text proposed by the High Representative

Amendment

1a. Pending the Decision referred to in paragraph 1:

- with regard to the protection of classified information, the EEAS shall apply Council Decision 2001/264/EC;

- with regard to other aspects of security, the EEAS shall apply Commission Decision 2001/844/EC.

Amendment 68

Proposal for a decision Article 11 – paragraph 1

Text proposed by the High Representative

Amendment

1. The General Secretariat of the Council and the relevant Commission services shall take all necessary measures so that the transfers referred to in **Article 6(8)** can be accompanied by the transfers of the Council and Commission buildings necessary for the functioning of the EEAS.

1. The General Secretariat of the Council and the relevant Commission services shall take all necessary measures so that the transfers referred to in **Article 6a** can be accompanied by the transfers of the Council and Commission buildings necessary for the functioning of the EEAS.

Amendment 69

Proposal for a decision Article 12 – paragraph 2

Text proposed by the High Representative

Amendment

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

2. The High Representative shall submit a report to the **European Parliament and 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).**

Amendment 70

Proposal for a decision Article 12 – paragraph 3

Text proposed by the High Representative

3. **The Council, acting on a proposal from the High Representative, shall review** this Decision in the light of *experience* no later than the beginning of 2014, **in accordance with Article 27 of the TEU.**

Amendment

3. **By mid-2013, the High Representative shall make a review of the functioning and organisation of the EEAS, which will cover inter alia the implementation of the provisions of Article 6(7) and (10). This review, shall, if necessary, be accompanied by appropriate proposals for revision of this Decision. In this case, the Council, in accordance with Article 27(3) TEU shall, revise** this Decision in the light of **the review** no later than the beginning of 2014.

Amendment 71

Proposal for a decision Article 12 – paragraph 4

Text proposed by the High Representative

4. This Decision shall enter into force on the date of its adoption. Its provisions on financial management and recruitment **going beyond the existing Staff Regulations and Financial Regulation** shall **only produce their legal effects** once the necessary amendments to the Staff Regulations and the Financial Regulation, as well as the amending budget, have been adopted. **In order to ensure a smooth management of the personnel of the EEAS and pending the entry into force of the modifications to the Staff Regulations, the Conditions of Employment of Other Servants and the Financial Regulation necessary for the implementation of this Decision, arrangements** shall be entered into by the High Representative, the General Secretariat of the Council and the Commission, and consultations shall be undertaken with the Member States.

Amendment

4. This Decision shall enter into force on the date of its adoption. Its provisions on financial management and recruitment shall **take effect** once the necessary amendments to the Staff Regulations and the Financial Regulation, as well as the amending budget, have been adopted. **Arrangements** shall be entered into by the High Representative, the General Secretariat of the Council and the Commission, and consultations shall be undertaken with the Member States **to ensure a smooth transition.**

Amendment 72

Proposal for a decision Annex - paragraph 2 - introductory wording (new)

Text proposed by the High Representative

Amendment

All staff in the departments and functions listed below shall be transferred en bloc to the EEAS, except for a limited number of staff mentioned below as exceptions.

Amendment 73

Proposal for a decision Annex - paragraph 2 - subparagraph 1 - indent 1

Text proposed by the High Representative

Amendment

- All hierarchy posts

- All hierarchy posts ***and support staff directly attached to them***

Amendment 74

Proposal for a decision Annex - paragraph 2 - subparagraph 2 - indent 1

Text proposed by the High Representative

Amendment

- All Heads of Delegation and Deputy Heads of Delegation

- All Heads of Delegation and Deputy Heads of Delegation ***and support staff directly attached to them***

Amendment 75

Proposal for a decision Annex - paragraph 2 - subparagraph 3 - indent 5

Text proposed by the High Representative

Amendment

- Applicable hierarchy posts

- Applicable hierarchy posts ***and support staff directly attached to them***

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	5.7.2010
Result of final vote	+: 17 -: 2 0: 0
Members present for the final vote	Carlo Casini, Andrew Duff, Roberto Gualtieri, Ramón Jáuregui Atondo, Paulo Rangel, Algirdas Saudargas, György Schöpflin, József Szájer, Søren Bo Søndergaard, Indrek Tarand, Rafał Trzaskowski, Guy Verhofstadt, Luis Yáñez-Barnuevo García
Substitute(s) present for the final vote	Elmar Brok, Marietta Giannakou, Sylvie Guillaume, Anneli Jäätteenmäki, Íñigo Méndez de Vigo
Substitute(s) under Rule 187(2) present for the final vote	Marta Andreassen, Luigi Berlinguer, Tomasz Piotr Poręba