

# **The Lisbon Treaty Evaluated: Impact and Consequences**

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# THE EEAS: THE PUZZLE OF A SERVICE OF A NEW KIND

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## **1. Introduction: the EEAS, a new challenge for political scientists**

Since the Convention was convened, the recipe for a new structure for dealing with external affairs has been based on two main ingredients: the first being the overall decision-making structure; and the second being the enhancing tools necessary to improve coherence (Blockmans and Wessel, 2009:24), consistency (Nuttall, 2005: 93) and visibility (Duke, 2006) in the system. While the decision-making structure remains largely unaltered, the decision was taken to merge different services. Changes were made in all institutions interested in external affairs policy-making, from the European Council to the European Commission and the Council of Ministers. One of the key institutional changes is the new High Representative/Vice-President of the Commission (HR/VP). The new High Representative is meant to bridge the two Pillars, in order to increase inter-institutional dialogue and consistency. Accordingly, she was assigned an impossible mission, namely that of chairing the newly established European Council for External Affairs, of being the Vice-President of the Commission, of co-ordinating the work of the RELEX Family, of guiding the European External Action Service (EEAS) and of representing the Union abroad.

This work aims to detect the main features of the newly established EEAS on the basis of two main organizational dimensions: the political and the bureaucratic ones. An analysis of how bureaucratic and political dilemmas will intersect in the new EEAS is here proposed. Accordingly, the second section discusses the institutional arrangements of the new architecture to deal with external affairs. The third and fourth sections will look at how respectively political and bureaucratic dilemmas will intersect in the newly established EEAS. On the basis of these two dimensions, the sixth section will present four possible scenarios for the EEAS. It is here argued that

there will be a direct relationship between political entrepreneurship and representational bureaucratic arrangements, whereas a more ‘technical’ bureaucratic arrangement would lead towards a brokerage role in foreign-policy matters.

## **2. The High Representative and the EEAS in the grey area of reform**

The choice of reforming the EU system of external relations in an enlarged Union followed two main recipes to obtain two major goals. The first is to mainly leave untouched the decision-making structure in order to enhance effectiveness while not yielding up sovereignty in foreign policy matters. The second passes through an institutional and bureaucratic reorganisation of the policy field, in order to improve coherence and consistency.

As was the case in the past, general Guidelines for CFSP and CSDP will be unanimously decided on by the European Council (Article 26(1)). The Council of Ministers will adopt decisions and actions on the basis of these Guidelines (Article 26(2)) and define the Union’s approach on thematic or geographical issues (Article 29). The Commission will maintain its power of initiative in its areas of competence, such as trade, development and humanitarian aid, but will also be involved in areas with an important external dimension, such as the environment and the Common Agriculture Policy. The High Representative will take part in all these activities. She will chair the new-born External Affairs Council and contribute to the CFSP through its power of initiative (Article 30) and its role in its implementation (Article 27(1)), assisted by the EEAS, the Commission and the Member States. She will also have a say in the definition and the implementation of First-Pillar competences – through her role as Vice-President and *mère de la Famille RELEX* – while ensuring diplomatic representation to all institutions of the Union.

The mainly unaltered decision-making structure is also reflected on new arrangements on external representation. The Union finally acquired International Legal Personality (ILP), under Article 1(3), but the bestowal of ILP in itself does not tell us about the attributions of competences to the EU. From this point of view, the scope of ILP of the Union does not differ markedly from that previously attributed to the Communities. As specified by Declaration 24, the endorsement of ILP to the Union

does not ‘authorize the Union to legislate or to act beyond the competences conferred upon it by the Member States in the Treaties’. In foreign-policy matters, the adoption of legislative acts is explicitly excluded (Article 11(1)). Along the same lines, Declaration 14 annexed to the Treaty of Lisbon made it plain that new provisions are not aimed at giving the Commission ‘new powers to initiate decisions’ or to ‘increase the role of the European Parliament’. Similarly, the European Court of Justice (ECJ) does not have jurisdiction in Common Foreign and Security Policy (CFSP), with the exception of reviewing the legality of certain decisions and settling conflicts over competences (Article 24(1) of the Treaty on the European Union (TEU)).

Therefore, three different sets of actors will carry on pursuing parallel policies: the Commission will lead the sphere of ‘low politics’; the Councils will concert positions and actions in ‘high politics matters’; and the Member States will carry on pursuing their own foreign policies, on the understanding that they act ‘in a spirit of loyalty and mutual solidarity’ and ‘refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness [...]’ (Article 24(3) TEU).

The bestowal of ILP to the EU does not simplify the task of acting at the international level on behalf of the EU. A plurality of subjects will still speak in the name of the EU. As with changes in the overall institutional machinery, the external representation of the Union underwent some major changes both at the central level and in the field.

At the central level, the abolition of the rotating Presidency for the European Council and for the newly established Foreign Affairs Council provoked a major reorganization of the Council structure. The reorganization of the Presidency of the Council is pursued through a plural arrangement for different Council configurations due to a triple organization of functions.<sup>1</sup> The new arrangement for the permanent Presidency of the European Council recognizes the role of the European Council as the main organ for political direction in foreign and security matters, as well in ‘other areas of the external action of the Union’ (Article 22(1)). But it does so by institutionalizing and ‘denationalizing’ its higher position. This creates a permanent Presidency aimed specifically at representing the *institution*, not the sum of its members, through the practice of rotation. The magnitude of this process of institutionalization is somehow diluted by some blanks left by the dispositions of the Treaties. It is not clear, for instance, what kind of relationship there will be between

the Presidency and the Secretariat, or between the President of the Council and the EEAS (Duke, 2009: 216). Abroad, no single institution still represents the Union on an exclusive basis, even if attempts have been made to unify forms of representation. While ending the rotating Presidency for both the European Council and the newly established Council for External Affairs, current arrangements confirm a two-pronged form of external representation, respectively imputed to the President of the Council (Article 9(b)) and the HR/VP (Article 13.2(a)). In addition to this, the Commission ‘with the exception of the common foreign and security policy, and other cases provided for in the Treaties, shall ensure the Union’s external representation’ (Article 17(1)).

The ‘Union Delegations’ will be placed under the authority of the HR/VP. In the recent past, three sets of actors were entitled to represent the EU externally: the Commission, in First-Pillar competences (and its Delegations in the field), the Member States, through the state assuming the rotating Presidency (and its embassies on the ground), and the Council, through its Secretary General/ High Representative for the CFSP (and its Special Representatives on the spot). There are two major changes from these arrangements.

In the first place, the Union Delegations will officially represent the EU (Article 221 TFEU), not the European Economic Communities. As in the past, their sphere of competences reflects the borders of the EU’s ILP, with all the limitations just discussed. The Delegations will carry on performing the same tasks as far as duties of representation, information, political reporting, commercial and economic affairs and development and cooperation are concerned. In the management of the whole mission, Heads of Delegation will generally act under the instructions of the HR/EEAS. However, ‘in areas where the Commission exercises the powers conferred to it by the Treaties, the Commission may also issue instruction to the Delegations’.<sup>2</sup> This means that the Delegations will execute common policies due to a system of multiple mandates, even if there are exceptions to this general rule.<sup>3</sup> Problems of competences, therefore, will flow from the central administration to the Delegations.

Secondly, with the end of the rotating Presidency in CFSP matters, Delegations will chair political meetings on the spot and, upon the request of the Member States, assist and support them ‘in their diplomatic relations and in their role of providing consular

protection to Union citizens in third countries'.<sup>4</sup> Arrangements in third countries are going to follow the new triple Council's triple organization of functions. The rotating Presidency is still going to apply to all Council's configurations, but not to the Council for External Relations the chair of which is the High Representative. Cooperation between Delegations and Member States' embassies on the ground is maintained as a central feature of the joint system of diplomatic representation. In this vein, diplomatic representation of the EU and the Member States clearly pursue different functions: whereas 'national embassies represent the interests of their country, help and protect their citizens and promote their country in general. The EU delegations represent EU positions and interests and support the High Representative in conducting the Union's CFSP and CSDP'.<sup>5</sup> It is still uncertain how new arrangements will be transposed to the field. In terms of duties of information and political reporting, some interesting details on how Delegations are going to circulate information among European actors are still left blank (Bicchi and Carta, 2010).

As widely recognized, overall performance under current arrangements will largely depend on the personal relationships and personalities of the actors involved, both at Headquarters and in the field (Avery and Missiroli, 2007; Duke, 2009: 216; Whitman, 2008). This is even more the case if we consider that all institutions will need to adjust to the new arrangements. Both the Commission and the Council Secretariat General suffered from the amputation of their Services, while the Member States claimed that the new EEAS does not adequately guarantee geographical balance. This litigious way of thinking is likely to be a disease of the EU external action structure, which, we hope, will not prove to be chronic. This question opens up a more important field of enquiry: where will the institutional loyalty and allegiance of the Service lie?

### **3. Reinforcing or dismissing the impact of nationalities?**

New bureaucratic arrangements are telling about the future architecture of the EU's external relations system in two important ways. In the first place, within a bureaucracy, above all a multinational one, bureaucratic arrangements offer us a barometer of the relations of strength among major institutional and political actors (Weber, 1968; Kingsley, 1944). The question of who employees are has a particular

importance, as the relationship between institutional structure and actors is mutually constitutive and self-reinforcing (Selznick, 1957: 17; Berger and Luckmann, 1967; Powell and DiMaggio, 1991). This new bureaucratic arrangement of the Service proves to be interesting with regard both to inter-institutional power struggles and the cultures which will nourish, along with its staff, the EEAS as a whole. Connected to this point, bureaucracies are carrier of symbols (Rosen, 1985; Olsen, 1988) constructed through the interplay between institutional actors and structure. The EEAS is a living laboratory in which different conceptions of the EU's external affairs will converge on the basis of intermingling organizational cultures and institutional interests over traditionally divided policy fields.

While at the lower level of the hierarchy the bulk of officials will be transplanted mainly from the Commission to the EEAS, the AD level staff is composed of officials from the Council Secretariat General and the Commission and diplomats from the Member States. The merger of different national and institutional cultures within the Service poses severe organizational dilemmas. As for the Commission, the EEAS faces three main dilemmas: the 'problem of an efficient representation', that is the need to ensure a balanced representation among different constituencies; the problem of 'dual allegiance', namely the need to strike a balance between loyalty towards the supranational authority and identification with the official's nation state; and the 'problem of political initiative', namely the capacity for maintaining an equilibrium between political entrepreneurship and deference towards principals (Claude, 1956).

In a recent speech, the newly appointed Chief Operating Officer David O' Sullivan acknowledged the centrality of this dilemma:

In terms of organizational culture, the merger of the different EEAS' component parts is not unlike a merger between corporations: it brings with it the challenge of establishing a common identity. And as with organizational change elsewhere, this will take time to be forged, particularly given the array of resources and instruments that we are bringing together.<sup>6</sup>

In order to foster this common identity, primary documents<sup>7</sup> confirm the existence of two concurrent organizational principles for the selection of staff for the EEAS: meritocracy and equality of access, which can be exemplified as respectively those of Weberian and consociational models (Hooghe, 2001). These criteria can be regarded

as depicting two concurrent principles on how different national and institutional constituencies should best be brought together within the bureaucracy. The EEAS will be staffed in a 'fair' way by three categories of personnel from the Commission, the Secretariat General of the Council and the Member States.<sup>8</sup> Recruitment was supervised by the HR, with selection procedures based on both 'merit' and 'adequate geographical and gender balance'.<sup>9</sup> It was led by the HR, and will involve Member States, the General Secretariat of the Council and the Commission, through the establishment of a Consultative Committee on Appointment (CCA).<sup>10</sup> While in most Member States an open competition for recruitment in the public service comprises both written and oral exams (Van-Biesen, 2006: 5), in the case of the EEAS, selection is not likely to rely on a similar competition. Reference was made to a less clear 'practice of selection' of all personnel, according to the grade and profile required for each position.

There is not yet a set of rules which explains how the different criteria of equality of access and merit will be balanced within the system. Main guidelines postponed the task of combining meritocracy with a 'meaningful presence of nationals from the Member States' to a review of the organization and functioning of the EEAS to be presented by the High Representative by mid-2013. This vagueness might be seen as a strategy for progress in the definition of the composition of the Service, as from all sides suspicion and rivalry over coveted positions surround the making of the EEAS' organizational chart.<sup>11</sup> Staffing the EEAS is one of the central arguments that the EP has used to threaten delaying its launch. In particular, the EP effectively used its budgetary control in order to exert influence over the nascent EEAS. Both the financial and the staff regulations, indeed, required the approval of the EP. Among other requests,<sup>12</sup> the Parliament actively pursued control over EU foreign-policy spending through the imposition of more rigid financial rules for the staff of the EEAS; major involvement of the Parliament in the oversight of the annual activity reports of the Delegations; and internal management and control systems in the Delegations, with the possibility of asking Heads of Delegations to report on their spending (Mahony, 2010). Importantly, the Parliament pushed to guarantee that at least 60 per cent of the new diplomatic staff are 'Community personnel', in order to guarantee a truly unified Service.<sup>13</sup>

In January 2010, some 54 Delegations were already converted into Delegations of the EU (Rettman, 2010) and in September 2010 the first Heads of Delegation were appointed under the new rotation 2010.<sup>14</sup> In spite of the fact Catherine Ashton praised the calibre of the nominations and warned that full geographical and gender balance could not be assessed on the basis of these first nominations the newly acceded Member States, and in particular Poland, protested against imbalance (Vogel, 2010). In the meanwhile, in early January 2011, some 3645 staff were part of the Service, out of which 1611 at Headquarters and 2034 in the Delegations.<sup>15</sup>

*Table 2: Transfer of posts from main institutions to the EEAS*<sup>16</sup>

Transfer of posts: Commission Brussels RELEX	Transfer of posts: Commission Brussels DEV	Transfer of posts: Commission Delegations RELEX	Transfer of posts: Council	New posts 2010/2011	Total
585	93	436	411	118	1643

As a transitional measure, permanent as well as temporary staff and Seconded National Experts (SNEs) from departments and functions in the Council and the Commission are on the move to the EEAS either at the individual level or as part of their units. On their side, the Member States will present in due course nominations for national diplomats to be transferred to the EEAS. As a provisional measure, these diplomats will cover vacant positions. But in order to guarantee national representation within the Service, ‘the High Representative may decide that, until 30 June 2013, priority may be given for certain posts in the EEAS to candidates from those services in case of substantially equal qualifications’. After this stage, equal access will be guaranteed.<sup>17</sup> Therefore, as a transitional measure, national diplomats will prevail in case of equal qualification.

The task of fairly representing nationalities within the system has further been complicated by the fact that members of the Council and Commission do not boast ‘supranationality as a nationality’. New Member States already lamented being under-represented both within the Commission and Council. Consequently, they fear being under-represented within the EEAS (Gotev, 2010). In this regard, the principle of ‘equality of access’ will conceptually overlap with that of ‘politicization’, that is, a ‘continuous political pressure for deviation’ from ‘the duty to develop and apply

common rules' (Christiansen, 1997: 77).

Beside issues of equality of access, the pursuit of meritocracy in the process of recruitment implies a delicate diplomatic game, in which a unified criterion of selection is difficult to achieve, due to the differences between different foreign-policy and diplomatic traditions and the size of respective MFAs. A high degree of variation is expected to occur in the way the 27 Member States of the European Union select names for national EEAS staff. These criteria may well respond to different rationales, depending on national strategies, the importance allocated to the new Service, bureaucratic and diplomatic traditions and European vocation. Above all for the higher positions, candidates will compete on the basis of very different profiles. On the one hand, at the last rotation, Member States presented for top jobs former Ministers and highly relevant political figures. On the other hand, from the Commission and Council Secretariat side, highly competent administrators with long experience of Cabinet were presented. On which grounds can the best officials be individuated? Do they need to be highly specialized civil servants or prestigious political figures?

Primary documents emphasize that all personnel should be treated equally.<sup>18</sup> Differences in expertise and grading between all institutions involved in the Service, however, complicate the assignment of AD-level posts and fuel existing fears that higher posts will be assigned using a consociational, rather than a meritocratic, criterion. This is a major issue, considering that the internal career structure profoundly shapes the behavioural patterns of personnel (Ongaro, 2010: 13). Once selected, a single Statute will offer the newly recruited staff the same employment conditions, regardless of previous posts. This condition is apparently at the core of the decision to resort infrequently to specialized SNE.<sup>19</sup> The bulk of national diplomats at the AD level will be specifically employed as temporary agents, whereas, in matters of eligibility, 'officials of the Union and temporary agents coming from the diplomatic services of the Member States shall have the same rights and obligations and be treated equally [...] No distinction shall be made [...]'.<sup>20</sup> This rests on the understanding that 'permanence' of appointments allowing continuity of experience will prevail over constant 'churning' political changes (Van-Biesen, 2006: 2). This primarily administrative and bureaucratic *escamotage* may effectively create a space

for the development of an *esprit de corps* within the new Service. Similarly to the adoption of the Statute in 1986, the provision of a single Statute may strengthen cohesion among different categories of staff, rendering more homogeneous their ‘hybrid’ position.

Staffing the EEAS implies filling the Service with a blend of different bureaucratic and administrative cultures, profiles and role conceptions. As with the Commission, an amalgam of administrative cultures will converge in the new institution in a mutually reinforcing process. The members of the EEAS will need to conciliate different senses of belonging and make sense of deliberately ambiguous definitions of the main objectives of the Treaty: the definition of the EU’s international political identity; the definition of common interest; and the necessity of fairly representing different national identities and interests within a common framework.

It appears, on the one hand, that current arrangements emphasize the importance of politically conciliating the different constituencies involved in the project. This might favour a more negotiated institutional culture, which would attempt to accommodate the policy preferences of different constituencies in the daily process of policy-making. Officials might interpret their role within the Service as ‘representational’ in nature. From this perspective, the system would be inherently *inter*-institutional. On the other hand, officials might emphasize the technical and professional aspects of their mandate. In the light of their unique status, they might develop a form of exclusive allegiance and deference to the Service they work for. This would produce a more integrated institutional culture, based on neutrality and technical expertise. The Service could be thus perceived as ‘European’, a term intended to stress the minimization of national and inter-institutional interference, in a Weberian bureaucratic understanding.

#### **4. The High Representative and the EEAS: the political dimension**

The creation of the HR/VP naturally fuelled reflections on how to rearrange the overall machinery dealing with external action, with particular regard to the EEAS. Four options emerged from the sessions of Working Group VII during the Convention.<sup>21</sup> It was finally decided to reinforce synergies between the two functions,

by creating a hybrid institutional bridge aimed at closing the gap between the artificially divided foreign- and external-policy fields. The idea of a *sui generis* service, located in an institutional middle ground somewhere between the Commission and Council seemed then to gather broad consensus among the Member States.<sup>22</sup>

The EEAS is therefore designed as a ‘functionally autonomous’ body (not an *institution*), ‘separate from the Secretariat General of the Council and from the Commission’.<sup>23</sup> The EEAS will be treated as an institution for the purposes of the Financial Regulation and be involved in the discharge procedure in cooperation with other interested institutions.<sup>24</sup> This aspect is all but negligible if considered the array of resources drained into the EEAS: a budget of €82 million for the Headquarters and of €278 for the Delegations, for a total of €460 million.<sup>25</sup>

The mission of the Service is that of assisting the new HR/VP in fulfilling her mandate.<sup>26</sup> As with the High Representative, the current structure of the service goes beyond a double-hatted arrangement. In a nutshell, its role of ‘institutional bridge’ means that its mission, institutional identity and role will be largely defined in close and dynamic relation with other institutional actors. The connotations of its designation as a Service might not prevent the EEAS from evolving progressively as a *value-bearing* institution (Ongaro, 2010), but this process will require time and the emergence of an organizational ‘map’ giving direction and assigning contents to the values pursued collectively. As it is still a vertical hierarchy, the system is still lacking an organizational essence; that is ‘the view held by the dominant group in the organization of what the mission and capabilities should be’ (Halperin, Clapp and Kanter, 1974: 28). This map will be progressively drawn through the adoption of the organizational chart, procedures and mandates, together with less material elements of an institutional culture, such as norms, values and routines.

As an effect of its ‘unique role’ the EEAS will, under the guidance of the HR, ensure consistency and coordination of the EU’s external action and prepare policy proposals, while ensuring their implementation. In order to fulfil this role, the EEAS will rely on single geographical and thematic desks, which will jointly execute the tasks previously performed by the homologous desks within the Commission and the Council Secretariat. As for its organization and composition, a minimalist vs.

maximalist vision of the Service emerged during the Convention (Duke, 2009). The two versions envisaged respectively a wider or narrower transfer of staff and functions to the EEAS.<sup>27</sup> The final arrangement of the EEAS seems to fall somewhere in between these two versions. In this vein, the new Service absorbed the Council Secretariat General, DGE, the newly established Crisis Management and Planning Directorate (CMPD), the Civilian Planning and Conduct Capability, the Military Staff, and, not exclusively, the Situation Centre. In terms of foreign policy, these would include political relations with third countries and the conduct of political-institutional cross-sector negotiations (Ongaro, 2010: 5). Within the Commission, due to the new arrangement, the bulk of DG RELEX have been transferred to the EEAS, with all geographical and most thematic desks on the move. In parallel, the Commission will still hold the bulk of thematic desks in several DGs connected to her main external competences. DG Trade, DG Enlargement, EuropAid and, in part, DG Development will remain under the Commission's umbrella.

As was the case in the Commission this reorganization does not tell us yet whether institutional actors will be able to cooperate effectively. Above all, the management of crucial policy fields, such as development and crisis management remain suspended between different institutions. Conflicts have already emerged in the past 'with regard to a measure which simultaneously pursues a number of objectives or which has several components, without one being incidental to the other'.<sup>28</sup> In particular, the difficulty of disentangling development-policy and foreign-policy components paves the way for conflicts over the attribution of competences. Linked to this, the management of financial instruments – such as the Instrument for Stability or the European Instrument for Democracy and Human Rights – will require a great deal of coordination between Commission Services, in order to ensure a sound planning and implementation of policy measures.<sup>29</sup> Similarly, the overall decision-making structure in crisis management matters remains unaltered (Blockmans and Wessel, 2009), with competences subject to both intergovernmental and community procedures. Ways to enhance the synergies in both preparation and implementation of common measures still need to be found. Some further contradictions arise in matters of negotiating international agreements in CFSP matters, where the Council, on the recommendation of the HR (not of the Commission), 'shall adopt a decision authorizing the opening of negotiations and, depending on the subject of the agreement envisaged, nominating

the Union negotiator or the head of the Union's negotiating team' (Article 218 TFEU).

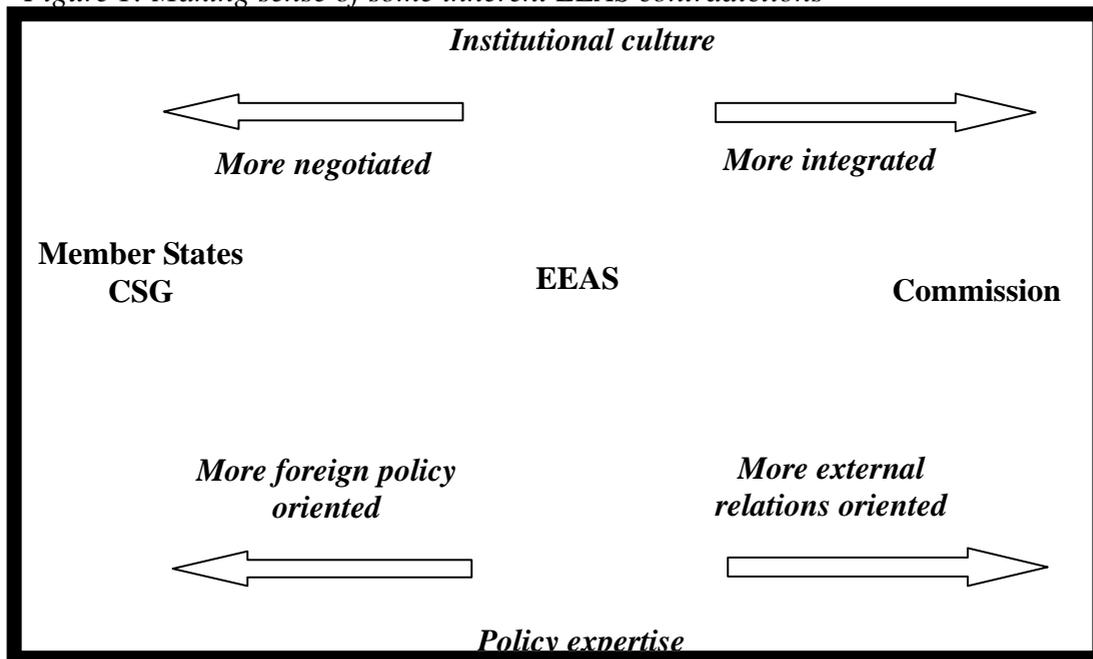
Institutional and organizational devices still have to be found in order to conciliate due integration with full respect for the Commission's and Council's competences. Therefore, in a time of turf battles, the EEAS will need to nourish a fruitful collaboration with relevant DGs within the Commission and Committees, Units and Working Groups within the Council, in order to get any work done.<sup>30</sup> In parallel, while having control over the Union Delegations, the EEAS will not have a direct say in crucial areas of EU external action, such as trade. In all these cases, the effectiveness of inter-institutional cooperation needs to pass the empirical test before being assessed.

As an effect of its mandate and composition, the new EEAS is constitutively imbued with a weak administrative and institutional culture. This raises important questions on how it will work in practice, as it is precisely the connotations of the term 'operational service' that blurs the definition of its role, a fact that will have consequences for the self-perceptions of its staff. In light of their unique role in the EU's external relations architecture, EEAS officials may conceive themselves as entrepreneurs, that is 'people [who] spend time and energy to support new visions and initiatives in a given policy sector', or as brokers, actors who 'contribute to match [...] problems with solutions, rather than focus on pushing their preferred proposal [...]' (Bicchi, 2007: 28-9).

Role prescriptions will converge in the EEAS black box, along with the organizational culture, expertise and role conceptions of its staff. At the higher levels of the Service, there are several ways in which the convergence of different staff will impact on the 'political' dimension of the EEAS. This is extremely important, considering that diplomats from the Member States and officials from the Commission and Council will work side by side at the AD level of the EEAS' hierarchy. Clashes between previous organizational cultures and possible interference on behalf of the Member States might occur at the level of policy and programming, not only of implementation.<sup>31</sup> In parallel, the material organization of each Directorate, Department and Unit within the Service will determine the level of cross-fertilization between different organizational cultures and expertise.

The tensions arising from different elements converging in the Service together with its staff can be epitomized by an apparent contradiction. On the one hand, in terms of institutional culture, a higher ratio of Commission officials might indicate the emergence of an institutional culture more imbued with ‘supranational ethos’, however conceived, and a well-established habit of interpreting the so-called ‘common interest’ in the absence of a negotiating mandate or a national interest to defend. On the other, a higher ratio of Council Secretariat officials and diplomats of the Member States might bring about the emergence of an institutional culture more ingrained in practices of diplomatic mediation and negotiation, where Member States’ diplomats work for European diplomacy on the basis of a clear mandate and the members of the Council Secretariat General are experts in supporting these negotiations. Alternatively, in terms of foreign-policy expertise, a higher ratio of members of the Council Secretariat General and diplomats from the Member States could ease the confluence of expertise in foreign- and defence-policy matters. Officials coming from the Council Secretariat General will bring into the Service a diversified expertise, stemming from military to diplomatic to specialized cultures, as well as a well-ingrained ability to support negotiations within the Council (Ongaro, 2010: 5-6).

*Figure 1: Making sense of some inherent EEAS contradictions*



From this point of view, there is not a single desirable way to achieve a more

integrated and, at the same time, more foreign-policy oriented Service. The convergence of staff from all institutions might, theoretically, be conducive to this goal. In addition to the overall ratio of officials coming from the three institutions, details on their location along the organizational chart will be telling of criteria of appointment and of whether the different expertises converging in the system will be mixed or compartmentalized and kept in reciprocal isolation.

## **5. The EEAS in the light of bureaucratic and political challenges**

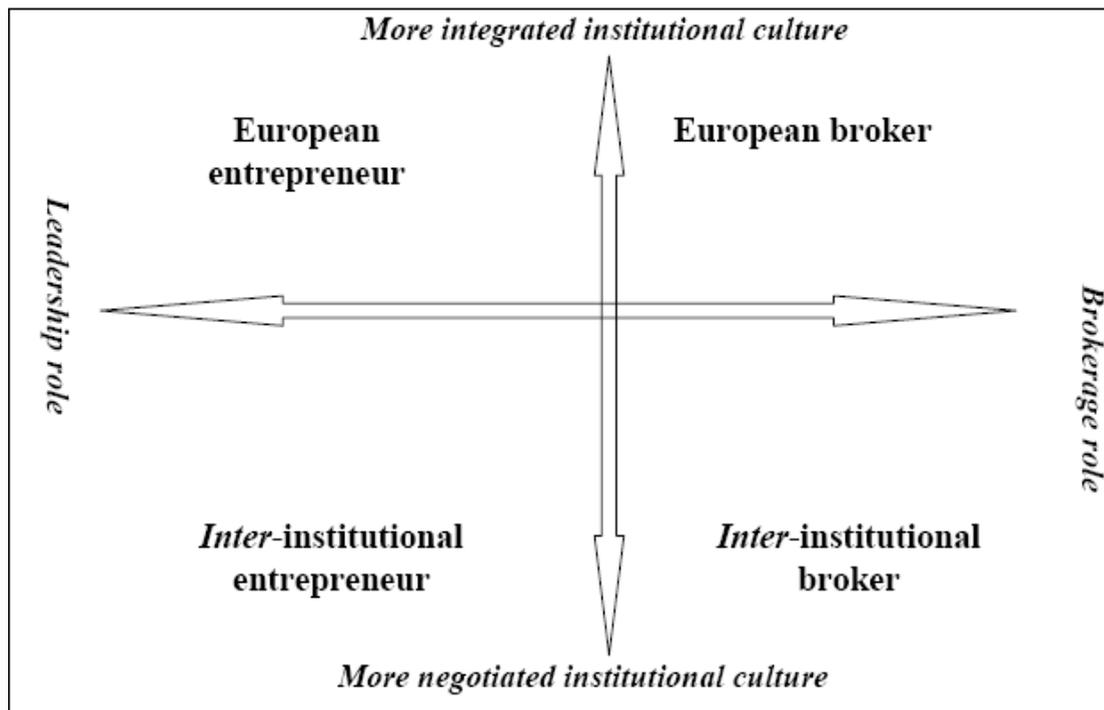
It seems the political and bureaucratic dimensions will largely determine the structure and functioning of the EEAS. On the one hand, the ways in which the policy and bureaucratic dimensions of the EEAS will be progressively designed will forge the organizational culture of the service. As was the case for the Commission's diplomacy (Carta, forthcoming), two sets of conceptual continua can help capture the main organizational dilemmas of the new Service: the political and the bureaucratic conceptual continua. In turn, these two dimensions can also account for variation in the elaboration of what being an EEAS diplomat means.

Along the bureaucratic continuum, two contiguous principles of bureaucratic arrangements coexist in the primary documents. These are the representational (consociational) and meritocratic (Weberian) principles (Hooghe, 2001). On the one hand, current arrangements emphasize the importance of conciliating politically the different constituencies involved in the project, in the light of the principle of representation. In this sense, the system would be inherently *inter*-institutional, as based on a logic of negotiation between different institutional and national constituencies. On the other, documents emphasize the technical and professional aspect of the EEAS officials' mandate, as defined around meritocratic criteria of selection, recruitment and promotion. This would produce a more integrated institutional culture, serving all other institutions on the grounds of neutrality and technical expertise. In this fashion, the Service could be conceived as 'European'.

Along the 'political' spectrum, both the hybrid institutional role of the Service and the confluence of staff with different expertise and institutional cultures might lead to the definition of the EEAS as a broker for other institutions. Also the connotations of the

fact that the EEAS is *sui generis* a Service rather than an institution in its own right might contribute to the belief that a brokerage role is inherent in its institutional profile. In this light, the EEAS could evolve into an institution playing mainly the role of facilitator of the drafting of policy proposals and of the implementation of policy measures decided elsewhere. On the other end of the continuum, the EEAS could make the most of its role as institutional bridge. Because of its experimental design, the confluence of different forms of expertise could contribute to integrating in a more decisive way elements of the Second Pillar within the institution. This might represent an upgrading of the Service. This unique institutional position might help fuel the feeling that the EEAS should put forward its own initiatives on the state of play in foreign affairs, on the grounds of the unique leverage of which it can boast in terms of foreign-policy expertise *tout court*. From this point of view, even at the level of middle-management, officials could contribute profoundly to a better integrated process of policy-making. By merging these two dimensions, we can hazard four scenarios of how the EEAS could evolve in the near future.

Figure 3: Two dimensions and four scenarios for the EEAS about here



The *inter*-institutional broker scenario would emphasize more the consociational aspect present in the recruitment plan. The newly established EEAS might evolve as the milieu in which different constituencies negotiate from within the system. In contrast to the Commission, the EEAS is neither a policy-making body nor an institution. The connotations of the term Service, in this modality, would be the stronger element defining the role of the newly established EEAS. As an effect of the EEAS's inherently hybrid institutional role, it could evolve as an agent, an executor of other institutions' will. This scenario is associated with the idea of the EEAS as a forum for negotiation among different 'souls' of EU foreign policy-making, designed to facilitate national and inter-institutional negotiations over integrated policy-making instruments. This would mark a difference from the past, as the Commission had a clearer institutional identity and mandate as compared to the EEAS. Even if the organizational norm of not receiving instructions from any other bodies can be extended to the EEAS, the consociational rationale inherent in the process of recruitment could entitle officials to pursue the lowest common denominator among oft-conflicting preferences. In this fashion, the EEAS would be mainly a negotiated foreign-policy organization, in which formulation and execution of common policies is eased by direct interest articulation within the bureaucratic structure.

A European broker scenario integrates the vision of the EEAS as a Weberian bureaucracy with that of a foreign-policy broker. This model of bureaucracy would stress meritocracy as a criterion for personnel policies. Although the Member States would have a say in the process of selection and recruitment of officials, the emerging organizational and institutional culture might stress most the meritocratic element and deference to the new Service. Thus the Service would respond exclusively to the instructions of the High Representative, in the light of the greater efficiency that this would produce. This would be combined with respect for the state of integration in foreign-policy matters. Accordingly, the Service would implement and execute decisions taken elsewhere, whether in the Council or in the Commission, because of different procedures. In this sense, the EEAS could evolve as a *merger of foreign-policy interests*: that is, a technical service able to re-elaborate on neutral and technical grounds the interests and identities embodied elsewhere, in the name of

respect for the overall ‘common interest’. This would emerge in an idea of the EU as an institutionalized foreign-policy forum, a system of exchanges in which different interests and institutional and national constituencies are sustained by a common Service, fully respecting the division of competences.

An *inter*-institutional entrepreneur scenario evolves based on an understanding of the special status of the EEAS as the first genuinely unified foreign-policy actor at the European level. As an effect of its unique status, the EEAS might evolve as the most representative institutional body of the entire Union. Bringing together staff from the Commission, the Council Secretariat General and the Member States, both in terms of representativeness and in terms of expertise, would entitle the Service to a leadership position in the EU’s system. From this perspective, the evolving organizational culture could emphasize the need to conciliate in a more integrated way different conceptions of and interests in the EU’s system of foreign affairs. This conciliation could be obtained by engaging in a continuous process of negotiation between different entreaties at all stages of policy-making. The confluence of staff coming from the Member States, the Council Secretariat and the Commission would render the EEAS a lively forum for direct negotiations over foreign-policy options, a space where sustained different institutional experiences and cultures converge in foreign policy-making. This special status could lead to a sort of *Directoire*, a powerful hybrid body, gathering the brightest European officials, glued together by a single statute and working conditions, and entitled, on these grounds, to pursue a form of foreign-policy leadership. The presence of different constituencies in a state of direct negotiation among themselves would allow the EEAS to make the most out of divided competences, in so doing contributing to the delineation of the role of the EU as a negotiated international actor: a system in which different interests are represented in a proportional way and are entitled to assume foreign- policy leadership.

The scenario of the European entrepreneur is based on conceptions of the EEAS as a Weberian bureaucracy and a foreign-policy entrepreneur. By sticking to the neutrality inherent in its bureaucratic mission, the EEAS could evolve as the ideal putative leader in foreign-policy matters, based on expertise and neutrality. From this perspective, the EEAS would represent the most advanced forum in which ‘common interest’ can be formulated in a neutral and efficient way. By merging expertise and

resources, the EEAS would be able to overcome potential deadlocks that might come to pass at the decision-making level, by integrating at the stage of policy formulation or implementation more integrated foreign-policy visions. In this fashion, the EEAS would act as a quasi-integrated Ministry of Foreign Affairs service, in which different components of foreign policy-making converge under common rules and procedures and cooperate in the make-up of foreign-policy decisions. As for the previous modality, the special status of the EEAS would make for a leader position for the service, in the light of both confluence of expertises and efficiency-based requisites. But, in contrast to the previous modality, the way in which the ‘common interest’ is articulated and translated into action would not be shaped through direct negotiation, but through a process of original interpretation of the enhancement of the Union’s international presence. This, in turn, would foster the idea of the EU as an integrated international actor: a system in which the EU could finally rely on an autonomous international personality as an effect of quasi-national structure.

For the time being, it is possible to think that the most probable scenario is the one that guarantees the most balanced distribution of gains and losses among major players. Accordingly, a European entrepreneur scenario is highly improbable. All players, but the EEAS, would collect costly losses: the Member States would lose competences in foreign-policy matters without the possibility of being represented in a *Directoire* of any kind and without being able to exert control over the process from the inside, while the Commission would lose competences and control over its areas of competence. In the same vein, an inter-institutional broker scenario would defeat the overall spirit of the reform and make the attempt to improve coherence totally vain. The most probable scenarios are, therefore, those of the European broker and the inter-institutional entrepreneur. In the first case, the impossibility of exerting control over the policy-making process would be balanced by minimal innovative role in policy-making for the EEAS. A major role in policy-making would instead be legitimized by a representational role in the bureaucracy. The representational nature of the EEAS, coupled with the high quality of the new staff converging in the Service, might encourage all parties to allow a more proactive political role on the ground of internal negotiation.

## 5. Conclusions

The new provisions for EU external action give rise to different interpretations. Wessel and Bopp posit that, depending on approaches, the Treaty of Lisbon could be regarded both as a ‘ratchet fusion process’ enhancing the EU international political identity through a gradual process of pooling of national resources, and as a highly sophisticated ‘rationalized intergovernmentalism’ which improves the toolbox for external action, without accomplishing a real ‘upgrading’ of the overall system (2008: 3-4).

As with the Commission, two main dimensions will consistently help define the physiognomy of the Service. On the one hand, there is the question of what kind of bureaucratic model will underpin the Service. On the other, there is the question of its role in matters of external action: that is, the way in which high and low foreign-policy elements are weighted. These elements are central to both the development of an original institutional ethos and to the way in which the EU will perform external action.

Despite uncertainties, some incontrovertible data can be drawn out. On the one hand, these organizational and institutional changes are going to create a ‘diplomatic’ service working for the whole Union. The structure of this Service, both in Headquarters and on the spot, confirms the approach that characterized the reform of the Commission’s external service until today: that is the creation of a state-like MFA, performing its role in collaboration with other specialized bodies.

In parallel, the merger of diplomats from the Member States and officials from the Council and Commission represents the most astonishing integration of services that has ever occurred in the history of EU’s external affairs. As was the case in the early days of the Commission’s diplomatic system, this major reorganization took a day-by-day approach, leaving several blanks to be filled in over time with substantial content. This is not the first time in its 50-year history when informality and flexibility have been used to define the role and identity of the External Service (Dimier and McGeever, 2006). This seems rather to be a carefully chosen path in the journey towards a common diplomatic system, acknowledging the need to ensure maximum consensus among Member States and European institutions at each step of the way.

As shown, the process of bureaucratic consolidation is based on both representational and meritocratic criteria. Travelling along the bureaucratic continuum from the consociational to the Weberian extremes, a series of hypotheses on how to compose the different ‘souls’ of the Union can be made. These will shape the cognitive processes of the EEAS staff, in progressively delineating both the organizational culture of the Service and its ability to best perform its role within the system. On the ‘political’ side, officials will need to find a way to reconcile foreign-policy and external-relations elements in the elaboration of political dossiers. The confluence of different organizational cultures may have an ambiguous impact on the performance of the EEAS, as a convergence of officials coming from the Council and the Member States may, in parallel, be conducive to a more negotiated institutional culture and to a more foreign-policy oriented policy expertise.

From an elaboration of the two dimensions, four scenarios for the EEAS were advanced. These scenarios flow from equally legitimate institutional and organizational hints. As for the Commission, different conceptions of what *building Europe* means will coexist in the EEAS. However, new institutional arrangements will make for higher variation in officials’ interpretations, as an effect of the weak character of the institution, the vagueness of mandates and treaty provisions, previous socialization of staff, coexistence of different organizational cultures, and the nature of the ties with previous institutions. Effects of this merger on staff’s role conceptions will progressively emerge allowing researchers to refine their research questions.

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<sup>1</sup> The European Council will be presided over by a permanent President, in charge for two and a half years (Article 9B). The President will 'ensure representation of the Union on issues concerning its

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common foreign policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy'. The General Affairs Council (GAERC) will give up foreign-policy competences, while maintaining a general role of coordinator of Council activities. The External Affairs Council will be exclusively in charge of foreign policies, and will be chaired by the HR/VP (9E.3). The remaining Council configurations will continue to be led through the rotating Presidency.

- <sup>2</sup> Explanatory memorandum to the Council, 25 March 2010. See also Article 6(3) of the Council Decision 2010(427), 26 July 2010.
- <sup>3</sup> The Delegation in Geneva seems to be one of those notable exceptions. A part of the Delegation will be accountable to the Commission and will deal with trade dossiers. Another part of the Delegation will be instead run by the EEAS and will represent the Union to the UN.
- <sup>4</sup> Reply to the Parliamentary Question E-4208/2010, dated 20 September 2010.
- <sup>5</sup> *Ibidem*. The reply further specifies: '... [They] help the HR to ensure coordination and coherence in EU external action. EU delegations implement EU policies according to positions defined in Brussels. They also implement the operational budget (financial instruments) which is decided upon in Brussels. [...]'
- <sup>6</sup> David O' Sullivan, Chief Operating Officer, European External Action Service, "Setting up the EEAS", IIEA, Dublin 14 January 2011.
- <sup>7</sup> Article 6.6 of the Council Decision 2010/427/EU of July 2010.
- <sup>8</sup> Draft Council Decision 8029/10.
- <sup>9</sup> Article 6(6) of the Council Decision 2010/427/EU of 26 July 2010.
- <sup>10</sup> Explanatory Memorandum to the Council Decision 8029/10, Brussels, 25 March 2010.
- <sup>11</sup> The ratio of national representatives within the Service has been a matter of contention among the Member States. On 25 March, for instance, the Visegrad Four met in Brussels and produced a paper arguing for fair representation in the EEAS ('Visegrad countries hold mini-summit in Brussels', 25 March 2010, available at <http://www.euractiv.com/en/future-eu/visegrad-countries-hold-mini-summit-brussels-news-378588>, retrieved 25 March 2010). A similar claim was advanced in a letter to Catherine Ashton signed by David Miliband and Carl Bildt acknowledging the existence of turf battles over the negotiations of the EEAS package (open letter from Miliband and Bildt, published by EurActiv, 4 March 2010, available at <http://www.euractiv.com/fr/node/305779>, retrieved 5 March 2010).
- <sup>12</sup> In addition, the Parliament pushed to integrate the European Development Fund into the EU's regular budget. This measure would allow the EP to scrutinize the spending under this heading.
- <sup>13</sup> Interview with MEP Elmar Brok, *The European Voice*, 29 September 2010.
- <sup>14</sup> Among the new nominees as Heads of Delegation, 16 posts went to former Commission officials and 13 to diplomats of the Member States (Press Release A181/10, Brussels, 15 September 2010). Member States' diplomats effectively captured some of the most coveted positions.
- <sup>15</sup> David O' Sullivan, Chief Operating Officer, European External Action Service, "Setting up the EEAS", IIEA, Dublin 14 January 2011.
- <sup>16</sup> Press Release IP/10/1769 "A new step in the setting-up of the EEAS: Transfer of staff on 1 January 2011", Brussels, 21 December 2010, available at: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1769&format=HTML&aged=0&language=EN&guiLanguage=en>. The Press Release specifies that also non permanent staff from both the Commission and the Council have been transferred.
- <sup>17</sup> Europa Press Release IP/10/705, 'Commission sets out staffing measures for External Action Service', Brussels, 9 June 2010, available at

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<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/705&format=HTML&aged=0&language=en&guiLanguage=en>, retrieved 10 July 2010.

- <sup>18</sup> Presidency Report 14930/09, Brussels, 23 October 2009.
- <sup>19</sup> Article 6(3) of the Council Decision 2010/427/EU of 26 July 2010.
- <sup>20</sup> Ibid.
- <sup>21</sup> While two options envisaged two different ways of enhancing synergy between the HR and the Commission, one option proposed a drift towards a full merger of the HR into the Commission and one suggested a stronger link to the President of the European Council. Final report of Working Group VII, CONV 459/02, Brussels, 16 December 2002.
- <sup>22</sup> Barroso and Solana rehearsed thus existing disagreements: ‘a small number of Member States consider that the EEAS should be restricted to covering CFSP/ESDP, whilst a few would instead prefer it to have a broad remit including areas such as enlargement, neighbourhood and development policy (there is a consensus that trade policy should not be included). The view of the majority of Member States lies somewhere between these two positions, with most as a result drawing the conclusion that the EEAS should consist of at least the relevant parts of the Council Secretariat (DGE and Policy Unit) and of the Commission (DG External Relations). [...]’. Joint Progress 9956/05, Brussels, 9 June 2005.
- <sup>23</sup> Council Decision 2010/427/EU, Brussels, 26 July 2010.
- <sup>24</sup> Regulation No 1081/2010 of the European Parliament and of the Council of 24 November 2010, amending the Council Regulation (EU, EURATOM) No 1605/2002 on ‘the Financial Regulation applicable to the general budget of the European Communities, as regards to the European External Action Service’, Official Journal of the European Union, 26 November 2010, L311/9.
- <sup>25</sup> David O’ Sullivan, Chief Operating Officer, European External Action Service, “Setting up the EEAS”, IIEA, Dublin 14 January 2011.
- <sup>26</sup> Accordingly, «the EEAS will support the High Representative [...] in fulfilling his/her mandate to conduct the CFSP of the Union and to ensure the consistency of the Union’s external action as outlined, notably, in Articles 18 and 27 TEU. The EEAS will support the High Representative in his/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 his/her capacity as Vice-President of the Commission, in respect of his/her responsibilities within the Commission for responsibilities incumbent on it in external relations, and in coordinating other aspects of the Union’s external action, without prejudice to the normal tasks of the Commission services». Council Decision 2010/427/EU, Brussels 26 July 2010.
- <sup>27</sup> A minimalist version would have envisaged a Service composed of ‘most Directorates General External and Politico/Military Affairs (DG-E) and the Policy Unit from the Council Secretariat side and Directorate General External Relations, especially Directorate A or the “Crisis Platform”, on the Commission’s side’ (Duke, 2009: 218-9). This arrangement would have excluded supervision of some important external activities of the Commission, such as trade, humanitarian aid, development and other mixed competences, while reinforcing the distance between the Secretary General of the Council Secretariat and the High Representative. An alternative, maximalist, vision would include in the EEAS nearly all the Commission’s Directorates General (with the exception of trade and humanitarian aid), while incorporating ‘the military dimensions of crisis management into the EEAS’ (Duke, 2009: 220).
- <sup>28</sup> Judgment of the Court of 20 May 2008. The author would like to thank Simon Duke for suggesting this point.
- <sup>29</sup> Regulation No 1081/2010 of the European Parliament and of the Council of 24 November 2010, Official Journal of the European Union, 26 November 2010, L311/9. The Regulation further specifies shared responsibilities: (3) «The Commission should remain responsible, in accordance with Article 319 of the Treaty on the Functioning of the European Union, for the implementation of the budget, including operational appropriations implemented by Heads of Delegations who are sub-delegated authorising officers of the Commission. [...]». The High Representative of the Union

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for Foreign Affairs and Security Policy [...] should be informed at the same time and should facilitate the cooperation between the Union Delegations and Commission's departments. Given the novelty of this structure, high-standard provisions on transparency and budgetary and financial accountability need to be applied».

<sup>30</sup> Within the Council, the EEAS will need to liaise with the Council at all level of hierarchy, from the Working Groups to COREPER and the Political and Security Committee, as well as with other actors, such as the EU Military Committee, Committee for Civilian Aspects of Crisis Management and other specialized Committees. Within the Commission, it will have to be able not only to cooperate with the RELEX Family DGs (DG Enlargement, DG Trade, part of DG Development, AIDCO and ECHO), but also with any DG whose field of competence has an external aspect.

<sup>31</sup> The author would like to thank Simon Duke for suggesting this relevant point.