

# THE ROLE OF THE EUROPEAN EXTERNAL ACTION SERVICE IN THE EU'S INSTITUTIONAL SYSTEM

DAN VĂTĂMAN\*

## Abstract

*European External Action Service (EEAS) is a new institution of the European Union, whose foundation was laid by the Treaty of Lisbon with the role to support the High Representative of the Union for Foreign Affairs and Security Policy in fulfilling his mandate and, also to assist the President of the European Council, European Commission, President and other Commissioners to exercise their powers in international relations. Since the establishment of the European External Action Service (EEAS) is relatively recent, this article tries to highlight the crucial role of the European External Action Service (EEAS) in the European Union's institutional system and its contribution to strengthening the coherence and increasing impact and visibility of European Union action at international level and thus the one of the Member States.*

**Keywords:** *European External Action Service, European Union institutions, diplomatic services, external action, Foreign Affairs and Security Policy.*

## 1. Introduction

Following developments for nearly sixty years, the European Union today is an economic power, the largest donor of humanitarian aid and a reference point for stability, democracy and human rights.

Under these conditions, to increase political and economic influence of the European Union in the world, we need a common foreign and security policy more effective and with higher impact, contributing to better promotion of the values and the interests of the Union and hence, its Member States.

To achieve this goal, the Lisbon Treaty envisaged the establishment of the European External Action Service (EEAS), with the role of supporting the High Representative for Foreign Affairs and Security Policy in fulfilling his mandate.

Given the recent date of establishment of the European External Action Service (EEAS) and, thereby, the relatively small number of papers describing the organization, functioning and tasks of the new European diplomatic service, this study attempts to highlight the important role of European External Action Service (EEAS) in the EU's institutional system and its contribution to strengthening the coherence and impact of growth and international visibility of EU action.

How it is treated researched theme highlights concerns about its analysis both from a general perspective, but also an analysis was gradually directed to evidence on the establishment, organization and functioning of the European External Action Service (EEAS).

Starting from the fact that specialized literature is particularly poor in terms about EEAS activities, currently being published only one book that describes in detail this issue, we believe that is much to say about this subject and consider that addressing a topic in the field of European Union foreign policy is an attempt both, bold and useful.

## 2. The evolution of EU foreign policy

The idea that EU countries should act together to promote and protect their strategic interests is as old as the very idea of European Union.

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\* Senior Lecturer Ph. D., Faculty of Economics, Law and Administrative Sciences - Romanian University of Sciences and Arts "Gheorghe Cristea", Bucharest, Romania, (email: danvataman@yahoo.com).

The roots of current foreign and security policy can be found in the final Communiqué of the summit in The Hague (1 to 2 December 1969) of the Heads of State or Government of Member States of the European Communities, which reaffirmed the imperative to strengthen political ties between the Member States. On this basis, the following year, the foreign ministers meeting of the six member states in Luxembourg (27 October 1970) adopted the Davignon report, which marked the beginning of European Political Cooperation (EPC).

Following the Davignon Report on 23 July 1973 in Copenhagen, the Foreign Ministers of the Member States of the European Communities adopted a second Davignon report on political cooperation, which highlighted the need for Europe to establish itself as a distinct entity on the world arena, especially in international negotiations, to identify common positions on major international issues and to consider their impact on international politics<sup>1</sup>.

A decade later, the Heads of State or Government meeting within the European Council in Stuttgart (19 June 1983), have signed a solemn declaration on European Union, which is known as "Declaration in Stuttgart." According to this document, seeking to consolidate the progress achieved so far both in economics and in politics, the Heads of State or Government have established a series of objectives to be achieved, including: increased consultation between Member States, progressive development and defining common principles and objectives and identify common interests, coordinate positions of the Member States relating to political and economic aspects of security, and closer cooperation between their diplomatic missions in third countries<sup>2</sup>.

Official consecration of European cooperation in foreign policy took place in February 1986 with the adoption of the Single European Act (SEA). According to Article 30 of SEA, the signatory states undertook to inform and consult on any foreign policy issues of general interest so as to ensure that their combined influence is exerted as effectively as possible by coordinating the convergence of their positions and implementation of joint actions.

According to Article B of the Maastricht Treaty (TEU), signed on 7 February 1992, one of the objectives of the European Union was that of the affirmation of an identity on the international scene, particularly through the implementation of a common foreign and security policy, including defining a common defense policy which might lead in the future time, to a common defense.

Fundamentals of foreign policy and security policy can be found in Title V of the TEU, which established a Common Foreign and Security Policy (CFSP). According to Article J.1 TEU<sup>3</sup>, the Union and Member States shall define and implement a Common Foreign and Security Policy covering all areas of foreign policy; its security objectives are: to safeguard the common values, fundamental interests and independence of the Union, to strengthen security Union and its Member States in all forms, maintaining peace and strengthening international security in accordance with the principles of the UN Charter, Helsinki Final Act and Paris Charter objectives, promote international cooperation, development and strengthening of democracy and the rule of law, and respect for human rights and fundamental freedoms.

With the adoption of the Amsterdam Treaty were a number of changes to the Maastricht Treaty regarding CFSP. According to Article J.2 TEU was created a new tool in the field of CFSP, common strategies<sup>4</sup> respectively. It was also created a position of "High Representative for CFSP"

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<sup>1</sup> *Second report on European political cooperation on Foreign Policy*, in (Bulletin of the European Communities, No 9/1973), p. 14-21.

<sup>2</sup> *Solemn Declaration on European Union. European Council, Stuttgart 19 June 1983*, in (Bulletin of the European Communities, No. 6/1983). pp. 24-29.

<sup>3</sup> According to the amendments made by Article 1.10 of the Treaty of Amsterdam (TAM), Article J.2 TEU became Article 12 and partially reproduced the old text Article J.1, Section 3 of the TEU.

<sup>4</sup> According to Article 13 TEU (former Article J.3 by renumbering adopted by TAM), common strategies were decided by the European Council, which also serve to develop principles and guidelines of the CFSP. Common strategies are adopted in areas where Member States have important interests in common. In one common strategy objectives are set, the time covered and the tools to be used by the European Union and its Member States. Common

having the role to assist the Council in matters of common foreign and security policy, particularly through contributions to the formulation, preparation and implementation of decisions and, where appropriate, acting on behalf of the Council and at the request of the EU Council Presidency, through conducting a political dialogue with third countries<sup>5</sup>.

Also Declaration no. 6 annexed to the Treaty of Amsterdam established a "Policy Planning Unit and Early Warning" within the Council Secretariat, which consists of diplomats and officials attached to the Council of Member States, Commission and the Western European Union (WEU) as well as of officials coming from the General Secretariat. The Nice Treaty also brought a number of changes to the CFSP. Thus, Article 17 TEU<sup>6</sup> provides that the foreign policy and security policy shall include all aspects of EU security including the progressive framing of a common defense policy, which could lead to a common defense if the European Council decides it. In this case, the European Council recommends Member States to adopt that decision in accordance with their respective constitutional requirements. Union policy for the purposes of this Article shall not affect the specific character of the security and defense of individual Member States and will meet their obligations under the North Atlantic Treaty for those countries who felt that their common defense through NATO perform better. Progressive framing of a common defense policy was to be supported, provided that Member States will consider appropriate, by their cooperation in the production of weapons. Matters referred to by Article 17 TEU included humanitarian and rescue tasks, peacekeeping and crisis management missions, including peacemaking. The provisions of Article 17 TEU is not an obstacle for the development of strengthened cooperation between two or more states at bilateral level, in the WEU or NATO to the extent that such cooperation does not conflict with those referred in respective article. To promote these objectives defined in Article 17 TEU, its provisions were revised to agree with Article 48 TEU (former Article N of TEU<sup>7</sup>).

Article 25 TEU (as amended in accordance with Article 1 of the Treaty of Nice) provides that, without conflict with Article 207 TEC, a Political and Security Committee monitor the international situation in the relevant areas of common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council, at its request on its own initiative. The Committee also exercises, under the responsibility of the Council, political control and strategic direction of crisis management operations. Council authorizes the Board to take appropriate decisions regarding the exercise of political control and strategic direction of operations without affecting the art. 47 (former Article M of TEU).

In the *Declaration on European Security and Defense* annexed to the Treaty of Nice it is shown that in accordance with the texts approved by the Nice European Council on European Security and Defense Policy (Presidency report and its appendices), the Union's objective was to make it operational as soon as possible. A decision in this regard was to be taken by the European Council in 2001 and later by the European Council in Laeken / Brussels based on existing provisions in the TEU, the entry into force of the Treaty of Nice not being a prerequisite condition.

For a more firm position on the world stage and greater coherence in EU external action, the Treaty of Lisbon has brought a number of changes and additions to the TEU. According to Article 24 TEU (consolidated version following the adoption of the Lisbon Treaty) EU competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defense policy which can lead to a common defense.

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strategies are applied by the EU Council, in particular by adopting joint actions and common positions. Also, the EU Council may recommend the adoption of a European common strategy in a particular field.

<sup>5</sup> Dan Vătăman, *History of the European Union* (Bucharest, "Pro Universitaria" Publishing House, 2011), p.54-55.

<sup>6</sup> Former Article J.7 TEU

<sup>7</sup> In its original form, the Treaty on European Union (TEU) had articles indexed with letters. The Treaty of Amsterdam introduced a new numbering system, with digits.

Pursuant to Article 25 TEU (consolidated version following the adoption of the Lisbon Treaty), the Union Common Foreign and Security Policy is defining the general guidelines by adopting decisions defining Union positions and actions and ways of implementing them and by strengthening systematic cooperation between Member States on policy. Thus, the European Council shall identify the Union's strategic interests, determine the objectives and define general guidelines for the common foreign and security policy, including matters with defense implications. If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council to define the strategic lines of the Union in relation to this development.

The Council also formulates foreign policy and security policy and takes decisions necessary for defining and implementing it on the basis of general guidelines and strategic lines defined by the European Council.

For the implementation of the CFSP, the Treaty of Lisbon has created the post of High Representative of the Union for Foreign Affairs and Security Policy which, together with the Council, ensure the unity, coherence and effectiveness of Union action. According to Article 27 TEU (consolidated version following the adoption of the Lisbon Treaty), the High Representative chairs the Foreign Affairs Council and contributes by his proposals to the common foreign and security policy and ensures the implementation of decisions adopted by the and Council. The High Representative shall also represent the Union for matters relating to common foreign and security policy, carrying out, on behalf of political dialogue with third parties and expressing the Union's position in international organizations and international conferences. In fulfilling his mandate, the High Representative shall be assisted by a European External Action. This service shall work in cooperation with the diplomatic services of Member States and shall comprise officials from relevant departments of the Secretariat of the Council and Commission and staff seconded from national diplomatic services. Organization and functioning of the European External Action Service shall be established by Council decision. European Council on a proposal from the High Representative after consulting the European Parliament<sup>8</sup> and Commission approval<sup>9</sup>.

### **3. Establishment of the European External Action Service (EEAS)**

As noted above, by the reform implemented by the Treaty of Lisbon it was created the post of High Representative for foreign affairs and security policy, which, according to Article 27 (3) of TEU, is supported in its mandate by a European External Action Service.

Considering that on 13 November 2009 it was completed the process of ratifying the Lisbon Treaty by the deposit of the last instrument of ratification, it took a summit in order to determine who will occupy key positions created under the Treaty<sup>10</sup>. Thus, during the informal meeting of Heads of State or Government of Member States held in Brussels on 19 November 2009, it was reached a political agreement on the appointment of Catherine Ashton as High Representative for Foreign Affairs and security policy.

Also, on 30 October 2009, the European Council agreed on guidelines for European External Action Service (EEAS), during which the future High Representative was asked to submit a proposal for the organization and functioning of the EEAS as soon as possible after coming into force of the Treaty of Lisbon on the adoption by the Council, no later than the end of April 2010. This proposal

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<sup>8</sup> According to Article 36 TEU, the High Representative shall regularly consult the European Parliament on the main aspects and basic choices of CFSP and Common Security and Defense Policy (ESDP) and inform on their evolution. It also ensures that the views of the European Parliament are duly taken into account. Special representatives may be involved in briefing the European Parliament.

<sup>9</sup> For details on the evolution of CFSP see Dan Vătăman, *European Union Law* (Bucharest, "Universul Juridic" Publishing House, 2010), p.177-181.

<sup>10</sup> It is about the positions of President of the European Council and of the High Representative of the Union for Foreign Affairs and Security Policy.

was made on 25 March 2010 as a project for a Council Decision on the organization and functioning of the EEAS. The structure was agreed in the General Affairs Council in April 2010 and will consult European Parliament and the European Commission.

On 21 June 2010, there has been a quadripartite meeting between representatives of the Council presidency (represented by Foreign Minister Miguel Moratinos and Spanish Secretary of State Lopez Garrido), the European Commission (represented by Maros Šefčovič, vice president for institutional relations and administration), the High Representative for Foreign and Security Policy - Catherine Ashton, as well as representatives of the European Parliament, who met in Madrid to discuss about the establishment of the European External Action Service. Following discussion, it was a political agreement on the proposal for a Council Decision on the organization and functioning of the European External Action Service and the text of two statements by the High Representative on political responsibility, namely the basic structure of the central government. Based on the agreement, participants pledged to seek approval of package by the institutions they represented, in order to move to adopt provisions concerning the organization and functioning of the EEAS.

During the plenary meeting of 8 July 2010, European Parliament passed the agreement reached by the quadripartite negotiations on the European External Action Service (EEAS). Although European Parliament was only consulted on the establishment and functioning of the European External Action Service, MEP-s negotiated major changes in the initial proposal in March 2010 of Catherine Ashton. Resolution to the Council decision on the organization and functioning of the European External Action was adopted with 549 votes for, 78 against and 17 abstentions<sup>11</sup>.

Having consulted the European Parliament and the European Commission approval on 26 July 2010, the Council adopted Decision 2010/427/EU on the organization and functioning of the European External Action Service (EEAS)<sup>12</sup>.

In accordance with Council Decision, the EEAS is placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy and has its headquarters in Brussels and is a functionally autonomous body of the European Union, separate from the General Secretariat of the Council and from the Commission with the legal capacity necessary to perform its tasks and attain its objectives.<sup>13</sup>

#### **4. European External Action Service Tasks**

European External Action Service (EEAS) support the High Representative in exercise of its mandate, particularly as provided in Articles 18 and 27 of the TEU:

- In fulfilling his mandate to lead the Common Foreign and Security Policy (CFSP) of the European Union, including the Common Security and Defense Policy (CSDP) to contribute by his proposals to develop the policy, which he conducted in accordance with the mandate granted by the Council and ensuring the consistency of EU external action;
- In his capacity as chairman of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council;
- In his capacity as Vice-President, in carrying out within the Commission, the 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.

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<sup>11</sup> In the legislative resolution of 8 July 2010 on the draft decision on the organization and functioning of the European External Action Service, the European Parliament invited the Council to notify Parliament if it intended to depart from the text approved, requesting Council to consult Parliament again if you intend to amend the proposal from the High Representative for Foreign Affairs and Security Policy - for details see [www.europarl.europa.eu](http://www.europarl.europa.eu)

<sup>12</sup> Official Journal of the European Union L 201/30 of 03.08.2010.

<sup>13</sup> Article 1 of Council Decision 2010/427/EU.

The EEAS shall also assist the President of the European Council, the President of the European Commission, and the European Commission in exercising their respective functions in the area of external relations.<sup>14</sup>

As part of its contribution to EU's external cooperation programs, the EEAS shall ensure as far as possible that programs meet the objectives of external action as set out in Article 21 TEU, in particular in paragraph (2) (d) thereof, and that they respect the objectives of the Union's development policy in line with Article 208 of the Treaty on the Functioning of the European Union (TFEU). In this context, the EEAS should also promote the fulfillment of the objectives of the European Consensus on Development<sup>15</sup> and the European Consensus on Humanitarian Aid<sup>16</sup>.

### **5. Cooperation of the European External Action Service (EEAS)**

European External Action Service (EEAS) support and cooperate with the diplomatic services of Member States and the Secretariat General of the Council and the services of the Commission to ensure consistency between different areas of EU external action and between those areas and its other EU's policies.

The EEAS and the services of the Commission shall consult on all matters concerning the Union's external action in exercising their respective functions, except for matters covered by CSDP. The EEAS take part in the preparatory work and procedures relating to acts to be prepared by the Commission in this area<sup>17</sup>.

The EEAS may enter into service-level arrangements with relevant services of the General Secretariat of the Council, the Commission, or other offices or interinstitutional bodies of the Union.

The EEAS provides support and cooperate with other EU institutions and bodies, in particular to the European Parliament. Also, the EEAS can receive support and cooperation from these institutions and bodies, including agencies, as appropriate. The internal auditor of the EEAS will cooperate with the Commission's internal auditor to ensure consistency of audit policy, particularly given the responsibility of the Commission on operational costs. In addition, the EEAS cooperate with the European Anti-Fraud Office (OLAF) in accordance with Regulation (EC) no. 1073/1999<sup>18</sup>. In particular, the EEAS should immediately take the necessary decision under that regulation on the terms and conditions for internal investigations. As stated therein, the Member States in accordance with their national institutions as well as provide the necessary support to enable OLAF officials to perform their tasks<sup>19</sup>.

### **6. Organization of the European External Action Service (EEAS)**

According to the establishing act, the EEAS is composed of a central administration and the Union delegations in third countries and international organizations.

#### **6.1. Central administration of the EEAS**

The EEAS is managed by an Executive Secretary General, acting under the authority of the High Representative. The Executive Secretary General shall take all measures necessary to ensure the smooth functioning of the EEAS, including administrative and budgetary management. Executive

<sup>14</sup> Dan Vătăman, *Institutions of the European Union* (Bucharest, "Universul Juridic" Publishing House, 2011), p.197.

<sup>15</sup> Official Journal of the European Communities C 46/1 of 24.2.2006.

<sup>16</sup> Communication from the Commission to the European Parliament and the Council — Towards a European Consensus on Humanitarian Aid (COM(2007) 317 final). Not published in the Official Journal.

<sup>17</sup> These provisions are implemented in accordance with Chapter 1 of Title V of the TEU (General provisions on the Union's external action), and with Article 205 TFEU.

<sup>18</sup> Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) - Official Journal of the European Communities L 136/1, 31.5.1999.

<sup>19</sup> Article 3 (4) of Council Decision 2010/427/EU.

Secretary General ensures effective coordination between all departments of the central administration and the Union delegations.

Executive Secretary General is assisted by two Deputy Secretaries General.

Central administration of the EEAS is organized in directorates-general, including in particular:

- Some directorates-general that include geographical desks covering all countries and regions in the world, as well as multilateral and thematic desks. These departments work together, as necessary, with the General Secretariat of the Council and the relevant services of the Commission;

- A directorate-general for the issues of administration, personnel, budget, security and information systems and communications operating within the EEAS, managed by the Executive Secretary General<sup>20</sup>. The High Representative shall appoint, in accordance with customary rules of recruitment, a director general for budgetary and administrative aspects of their tasks under the authority of the High Representative. It will be responsible to the High Representative for the administrative and internal budgetary management of the EEAS;

- 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, and which assist him in the task of conducting the Union's CFSP in accordance with the provisions of the Treaty while respecting, in accordance with Article 40 TEU, the other competences of the Union.

The specific nature of these structures, including features in their functions, and personnel recruitment and status must be respected. The full coordination between all structures of the EEAS is ensured.

The central administration of the EEAS also include:

- a strategic policy planning department;
- a legal department, under the administrative authority of the Executive Secretary General, who works closely with Legal Services of the Council and the Commission;
- departments for interinstitutional relations, information and public diplomacy, internal audit and inspections and personal data protection.

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 detailed arrangements set out in Annex II to Council Decision 2009/908/EU 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.

The High Representative and the EEAS shall be assisted where necessary by the General Secretariat of the Council and the relevant departments of the Commission. Service-level arrangements may be drawn up to that effect by the EEAS, the General Secretariat of the Council and the relevant Commission departments.<sup>21</sup>

## 6.2. The European Union's delegations in third countries and at international organizations

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

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<sup>20</sup> According to Article 9 (3) of Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 15 June 2011 on the security rules for the European External Action Service (2011/C 304/05), the Executive Secretary-General shall ensure that appropriate physical and organisational measures are in place for the security and safety of staff and visitors, physical assets and information in all EEAS premises. The Executive Secretary-General shall be assisted in this task by the Chief Operating Officer and the EEAS Security Directorate - Official Journal of the European Union C 304/7 of 15.10.2011.

<sup>21</sup> Article 4 of Council Decision 2010/427/EU.

Each delegation of the European Union is placed under the authority of a head of delegation. All staff of the delegation, regardless of their status, and overall activity of the delegation is under the authority of the Head of Delegation. He responds to the High Representative for the overall management of the business delegation and ensures coordination of all actions of the European Union.

Personnel of the delegations include the EEAS staff and, when necessary for the implementation of the Union budget and Union policies other than those under the remit of the EEAS, the Commission staff.

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

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

Head of Delegation is running operational credit in connection with Union's projects in the third country concerned, where the Commission has that sub jurisdiction, in accordance with Financial Regulation.

The operation of each delegation is periodically evaluated by the Executive Secretary General of the EEAS, evaluation includes financial and administrative audits. To this end, Executive Secretary of the EEAS may request assistance in this regard from the relevant Commission departments. In addition to internal measures taken by the EEAS, OLAF shall exercise the powers, especially by adopting the anti-fraud measures in accordance with Regulation (EC) no. 1073/1999<sup>22</sup>.

High Representative concluded the necessary agreements with the host country, the international organization or the third country. In particular, the High Representative takes appropriate steps to ensure that host countries grant Union delegations, their staff and their property, privileges and immunities equivalent to those specified in the Vienna Convention on Diplomatic Relations of 18 April 1961.

Union delegations have the capacity to respond to the needs of other institutions of the European Union, in particular the European Parliament, in their contacts with the international organizations or third countries to which the delegations are accredited.

The Head of Delegation have the power to represent the European Union in the country where the delegation is accredited, in particular for the conclusion of contracts, and as a party to legal proceedings.

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

The Union delegations, acting in accordance with the third paragraph of Article 35 TEU, and upon request by Member States, support the Member States in their diplomatic relations and in their role of providing consular protection to citizens of the Union in third countries on a resource-neutral basis.<sup>23</sup>

### 6.3. The staff of the EEAS

The EEAS staff is composed by officials and other servants of the European Union, including personnel from the diplomatic services of the Member States appointed as temporary agents.

If necessary, the EEAS may, in special cases, have recourse to a limited number of specialised seconded national experts. In this case, the High Representative shall adopt rules, equivalent to those laid down in Council Decision 2003/479/EC of 16 June 2003 concerning the rules applicable to

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<sup>22</sup> Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF).

<sup>23</sup> Article 5 of Council Decision 2010/427/EU.



national experts and military staff on secondment to the General Secretariat of the Council<sup>24</sup>, under which the specialised seconded national experts are put at the disposal of the EEAS in order to provide specialised expertise<sup>25</sup>.

EEAS staff perform their duties and conduct solely in view the interests of the Union. They neither seek nor accept instructions from any government, authority, organization or person outside the EEAS or any other body or person other than the High Representative. In accordance with Article 11, second paragraph of Staff Regulations, EEAS staff can not accept any payment from any source other than the EEAS.

The powers conferred on the appointing authority by the Staff Regulations and the authority empowered to conclude contracts by the CEOS (Conditions of Employment of Other Servants)<sup>26</sup> shall be exercised by the High Representative, who may delegate these powers inside the EEAS.

Recruitment to the EEAS takes place according on merit and ensuring adequate geographical and gender balance. The staff of the EEAS comprise a meaningful presence of nationals from all the Member States.

Officials of the European Union and temporary agents coming from the diplomatic services of the Member States have the same rights and obligations and are treated equally, in particular as concerns their eligibility to assume all positions under equivalent conditions. There is no distinction between temporary agents coming from national diplomatic services and officials of the European Union as regards the assignment of duties to perform in all areas of activities and policies implemented by the EEAS. In accordance with the provisions of the Financial Regulation, the Member States shall support the Union in the enforcement of financial liabilities of EEAS temporary agents coming from the Member States' diplomatic services which result from a liability under Article 66 of the Financial Regulation.

High Representative establish the selection procedures for EEAS staff which is carried out through a transparent procedure based on merit, with the aim to provide a personal service with the highest degree of skill, efficiency and integrity, while ensuring a geographical balance and appropriate for men and women and a significant presence of nationals of all Member States in the EEAS. Representatives of Member States, the General Secretariat of the Council and of the Commission are involved in recruitment procedure for vacant posts in the EEAS.

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. Likewise, permanent officials of the European Union 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 officials of the European Union 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. In principle, all EEAS staff shall periodically serve in Union delegations. The High Representative shall establish rules to that effect.

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

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<sup>24</sup> Official Journal of the European Union L 160/72 of 28.6.2003.

<sup>25</sup> According to Article 2 (1) of Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 23 March 2011 establishing the rules applicable to National Experts Seconded to the European External Action Service (2012/C 12/04), the period of secondment may not be less than six months nor exceed two years and may be renewed successively up to a total period not exceeding four years. Exceptionally, at the request of the relevant Managing Director or equivalent, and where the interests of the service warrant it, the Human Resources Department may authorise one or more extensions of the secondment for a maximum of two more years at the end of the four-year period – Official Journal of the European Union C 12/8 of 14.1.2012.

<sup>26</sup> Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1387/62. English special edition: Series I Chapter 1959-1962 p. 135).

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 the CEOS (Conditions of Employment of Other Servants), the period of service may not exceed eight years, unless, it is extended for a maximum period of two years in exceptional circumstances and in the interest of the service.

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

Measures are taken in order to provide EEAS staff with adequate common training, building in particular on existing practices and structures at national and European Union level.<sup>27</sup>

From 1 January 2011, a number of relevant departments and functions within the General Secretariat of the Council and of the Commission were transferred to the EEAS. Officials and temporary staff positions in these departments who had these functions were transferred to the EEAS. This provision is applied *mutatis mutandis* to local staff and contract employees in such departments and holding such functions. Specialized national experts (SNE) who were operating in those departments or functions in question had also been transferred to the EEAS with the agreement of the authorities of the originating Member State.

#### 6.4. Access to documents, archives and data protection of EEAS

The EEAS applies the rules laid down in Regulation (EC) no. 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.<sup>28</sup>

The relevant archives of the departments transferred from the General Secretariat of the Council and the Commission were also transferred to the EEAS and, therefore, they are organized by the Executive Secretary General of the EEAS.

According to Article 11 (3) of Council Decision 2010/427/EU, the EEAS protect individuals with regard to the processing of their personal data in accordance with the rules laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>29</sup>. The High Representative shall decide on the implementing rules for the EEAS.<sup>30</sup>

### 7. Conclusions

Until recently, the EU's institutional system included numerous posts that prevented the Union to represent a single voice in external relations. Legend says that three decades ago, Henry Kissinger, U.S. Secretary of State at the time, would have asked the following question: "*Who should I call if I want to talk to Europe?*" Although the American diplomat denied the authenticity of the moment, it remained as a landmark in transatlantic relations, reason for which today we can formulate an answer to this question.

Thus, the reforms implemented by the Treaty of Lisbon created the position of President of the European Council, chairing its work towards facilitating consensus among Member States, ensuring dialogue with other European institutions and representing the Union externally, without prejudice to the powers of another newly created position, that of High Representative for Foreign and Security Policy.

High Representative for Foreign Affairs and Security Policy, who is at the same time one of the vice chairs of the Commission and presides the External Relations Council's work, represents the Union for matters relating to common foreign and security policy, carrying out, on behalf of political

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<sup>27</sup> Article 6 of Council Decision 2010/427/EU.

<sup>28</sup> Official Journal of the European Union L 145/43 of 31.05.2001

<sup>29</sup> Official Journal of the European Union L 8/1 of 12.01.2001

<sup>30</sup> For details on the European External Action Service activities see <http://eeas.europa.eu>

dialogue with third parties and expressing the Union's position in international organizations and international conferences. However, the Lisbon Treaty provided that for optimal conditions in the exercise of its mandate, the High Representative shall be assisted by a European External Action Service, working in cooperation with the diplomatic services of Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and Commission and staff seconded from national diplomatic services.

So the establishment of the post of High Representative for Foreign Affairs and Security Policy and the European External Action Service can translate into practice the EU answer to the question of Henry Kissinger.

It remains to be seen whether the High Representative for Foreign Affairs and Security Policy, supported by the European External Action Service will be able to bring more coherence in external action and outline the profile of the European Union on the international stage, creating a distinct identity of it.

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- [www.europarl.europa.eu](http://www.europarl.europa.eu) - official website of the European Parliament.
- <http://www.mae.ro> - official website of the Ministry of Foreign Affairs of Romania.