European External Action Service (EEAS): organisation and functioning

2010/0816(NLE) - 25/03/2010 - Legislative proposal

PURPOSE: High Representative's proposal on the establishment of the organisation and functioning of the European External Action (EEAS) Service.

PROPOSED ACT: Council Decision.

BACKGROUND: the European Union has the clear objective to support a more stable, prosperous and secure environment for its citizens. In order to better achieve this, the Lisbon Treaty lays the basis for greater coherence in the Union's foreign policy. By bringing together its many levers of influence in a more effective manner and pursue a wide range of goals on the international scene, it will increase the Union's political and economic influence in the world.

The TEU tasks the High Representative to conduct the Union's Common Foreign and Security Policy (CFSP), to chair the Foreign Affairs Council, to fulfil within the Commission the responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external relations, and to support and facilitate the cooperation between the Council and Commission in order to ensure consistency between the different areas of external action.

In fulfilling her mandate, the High Representative shall be assisted by a European External Action Service (EEAS) which will help strengthen the European Union on the global stage, give it more profile, and enable it to project its interests and values more efficiently. In order to attain these objectives and implement the Lisbon Treaty, the EEAS must be operational as soon as possible. This proposal sets out the organisation and structure of this service.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 27(3) of the Treaty on the EU.

CONTENT: the present proposal for a Council Decision, presented by the High Representative, sets out the framework for an efficient and effective EEAS. It is based on wide and constructive consultations the High Representative held with Member States, the Commission and the European Parliament. The question of the adaptation of existing Inter-Institutional Agreements with the European Parliament will be examined in the forthcoming deliberations between institutions. The main provisions are as follows:

Nature and Scope: the EEAS, which has its headquarters in Brussels, shall be a **functionally autonomous body of the EU**, separate from the Commission and the General Secretariat of the Council, with the legal capacity necessary to perform its tasks. It shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy ("HR"), and be made up of a central administration and of the Union delegations to third countries and to international organisations.

Tasks: the EEAS shall support the HR:

- in fulfilling her mandate to conduct the CFSP of the EU and to ensure the consistency of the EU's external action;
- in her capacity of President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council;
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in her capacity as Vice-President of the Commission for fulfilling 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 services of the Commission.

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

Cooperation: it shall work in cooperation with the General Secretariat of the Council and the services of the Commission, as well as with the diplomatic services of Member States, in order to ensure consistency between the different areas of the Union external action and between these and its other policies. The EEAS and the Commission services must consult each other on all matters relating to the external action of the Union. The EEAS shall take part in the preparatory work relating to acts to be prepared by the Commission in this area. It may enter into service-level arrangements with relevant services of the Commission, the General Secretariat of the Council, or other offices or interinstitutional bodies of the EU. It shall extend appropriate support to the other institutions of the Union.

Central administration: to ensure the effective day-to-day administration and operation of the Service, the High Representative shall appoint a Secretary-General, two Deputy Secretaries-General working under the latter's authority, and the Directors General of the EEAS. The Secretary-General, assisted by the Deputy Secretaries-General, shall manage the EEAS and ensure the effective coordination between all departments of the EEAS and with the Union Delegations. The Directorates General of the EEAS shall include geographical desks covering all countries and regions of the world as well as multilateral and thematic desks. These departments shall coordinate as necessary with relevant services of the Commission and with the General Secretariat of the Council. The EEAS will also comprise administrative, staffing, financial and other support services necessary for the functioning of the service.

Union delegations: the Union Delegations constitute an integral part of the EEAS. They are a key platform for the international projection of common European interests. The decision to open a Delegation shall be adopted by the High Representative, after consulting the Council and the Commission, while a decision to close a Delegation shall be adopted in agreement with the Council and the Commission.

Each Union delegation shall be led by a Head of Delegation, who will have authority over all staff in the delegation, **whatever their status, and for all its activities**. He shall be accountable to the HR for the overall management of the work of the delegation. Staff in delegations shall comprise EEAS staff and, where this is appropriate for the implementation of the Union budget and Union policies other than those under the remit of the EEAS, Commission staff.

The Head of Delegation shall receive instructions from the HR and the EEAS, and shall be responsible for their execution. In areas where the Commission exercises the powers conferred to it by the Treaties, the Commission may also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation. The Head of Delegation shall implement **operational credits in relation to EU projects** in the corresponding third country, where sub-delegated by the Commission, in accordance with the Financial Regulation.

Union delegations shall have the capacity to service the needs of other EU institutions, in particular the European Council and the European Parliament, in their official contacts with the international organisations or third countries to which they are accredited. They shall work in close cooperation with the diplomatic services of the Member States.

Staff: for matters relating to its staff the EEAS should be treated as an institution within the meaning of the Staff Regulations. The EEAS shall comprise:

- officials and other servants of the EU, including personnel from the diplomatic services of the Member States appointed as temporary agents;
- if necessary, and on a temporary basis, specialised seconded national experts (SNEs).

All members of the staff of the EEAS covered by the Staff Regulations and the Conditions of Employment of Other Servants shall have the same rights and obligations, regardless whether they are officials of the EU or temporary agents coming from the diplomatic services of the Member States, and be treated equally, in particular as concerns eligibility to assume all positions under equivalent conditions. No distinction shall be made between temporary agents coming from national diplomatic services and officials of the EU as regards the assignment of duties to perform in all areas of activities and policies implemented by the EEAS. The relevant departments and functions in the General Secretariat of the Council and in the Commission listed in the Annex (to be published) shall be transferred to the EEAS on the day of the adoption of the amending Budget of the EU providing for the corresponding posts and appropriations 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**.

Staff transfers: the relevant departments and functions in the General Secretariat of the Council and in the Commission listed in the Annex shall be transferred to the EEAS. Officials and temporary agents occupying a post in departments or functions listed in the Annex shall be transferred to the EEAS. This shall also apply to contract and local staff assigned to such departments and functions. SNEs working in those departments or functions shall also be transferred to the EEAS. These transfers shall take effect on the day of the adoption of the amending Budget of the European Union providing for the corresponding posts and appropriations in the EEAS. Upon their transfer to the EEAS, the High Representative shall assign each official to a post in his function group which corresponds to his grade.

Budget: in order to ensure the budgetary autonomy necessary for the smooth operation of the EEAS, the Financial Regulation should be amended in order to treat the EEAS as an "institution" within the meaning of the Financial Regulation, with a specific section in the Union budget (see COD/2010/0054). The EEAS will be subject to the procedures regarding the discharge. The HR will act as authorising officer for the EEAS section of the General Budget of the EU and adopt the internal rules for the management of the corresponding budget lines. These internal rules shall lay down which of the powers of the authorising officer are delegated to the Secretary-General and the conditions under which the Secretary-General can sub delegate these powers. As regards operational expenditure arising from the implementation of the CFSP budget, the Instrument for Stability, the Instrument for Cooperation with Industrialised Countries, the Communication and Public Diplomacy as well as the Election Observation Missions, the Commission shall be responsible for their financial management under the authority of the HR in her capacity as Vice-President of the Commission.

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

- the Development Cooperation Instrument (DCI),
- the European Development Fund (EDF),
- the European Instrument for Democracy and Human Rights (EIDHR),
- the European Neighbourhood and Partnership Instrument (ENPI),
- the Instrument for Cooperation with Industrialised Countries,
- the Instrument for Nuclear Safety Cooperation.

Throughout the whole cycle of programming, planning and implementation of these instruments, the HR and the EEAS shall work with the Commission. All proposals for decision will be prepared through Commission procedures and submitted to the Commission for decision.

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

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

With regard to the EDF and the DCI, any proposals, including those for changes in the basic regulations and the programming documents above, shall be prepared by the EEAS and in the Commission under the direct supervision of the Commissioner for Development Policy and then jointly submitted with the HR for decision by the Commission. The same applies to the ENPI under the direct supervision and guidance of the Commissioner responsible for Neighbourhood Policy.

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

The proposal also contains provisions **on security, and access to documents and data protection**.

Report: the HR shall submit a report to the Council on the functioning of the EEAS in 2012. The Council will review the Decision in 2014.

Entry into force: in accordance with the guidelines of the European Council of December 2009, it is critical that the present Decision be adopted swiftly. In parallel and as part of this overall project, amending provisions to the Financial Regulation and the Staff Regulation and an amending budget should be adopted rapidly, with a view to rendering the EEAS fully operational. The provisions on financial management and recruitment going beyond the existing Staff Regulations and Financial Regulation shall only produce their legal effects once the necessary amendments to the Staff Regulations and the Financial Regulation, as well as the amending budget, have been adopted. One month after the entry into force of the Decision, the HR shall submit to the Commission an estimate of the revenue and expenditure of the EEAS, including an establishment plan, in order for it to present a draft amending budget.

Consultation: a recital states that the European Parliament will fully play its role in the external action of the Union, including its functions of political control as provided for in the TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with the TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration. The EEAS will assist the High Representative in this regard.

BUDGETARY IMPLICATION: an amending budget should be adopted shortly outlining the corresponding posts and appropriations in the EEAS.