

## **P7\_TA(2010)0280**

### **European External Action Service \***

**European Parliament legislative resolution of 8 July 2010 on the proposal for a Council decision establishing the organisation and functioning of the European External Action Service (08029/2010 – C7-0090/2010 – 2010/0816(NLE))**

#### **(Consultation)**

*The European Parliament,*

- having regard to the proposal by the High Representative of the Union for Foreign Affairs and Security Policy (08029/2010),
  - having regard to the statement given by the High Representative at Parliament's plenary sitting on 8 July 2010 on the basic organisation of the EEAS central administration,
  - having regard to the declaration by the High Representative on political accountability,
  - having regard to Article 27(3) of the Treaty on European Union, pursuant to which the Council consulted Parliament (C7-0090/2010),
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs and the opinions of the Committee on Constitutional Affairs, the Committee on Development, the Committee on International Trade, the Committee on Budgets, the Committee on Budgetary Control and the Committee on Women's Rights and Gender Equality (A7-0228/2010),
1. Approves as amended the proposal by the High Representative of the Union for Foreign Affairs and Security Policy;
  2. Is determined to reinforce its cooperation with national parliaments of Member States as required by the Treaty, in the area of the Union's external action, and especially concerning the CFSP and the CSDP;
  3. Is of the view that amendments to the Financial Regulation should, in addition to the present Council Decision, further specify the role of the Commission concerning sub-delegation of powers to Heads of Delegation to implement operational appropriations, in particular ensuring also in the Financial Regulation that the Commission takes all necessary measures to guarantee that sub-delegation of powers does not affect the discharge procedure;
  4. Invites the Commission to include in its comprehensive working document on expenditure relating to EU external action, which is to be drafted together with the Draft EU budget, details concerning, inter alia, the establishment plans of the Union's Delegations, as well as the external action expenditure per country and per mission; points out that it intends to modify the Financial Regulation accordingly;
  5. Reiterates that, in the event of disputes concerning Commission instructions to Heads of EU Delegations which are, in accordance with Article 221(2) of the TFEU, placed under the authority of the High Representative, and in the event of disagreement between the High Representative and the Commissioners responsible for the programming of the relevant external

assistance instruments, it is for the College of Commissioners to take the final decision;

6. Urges the High Representative to make sure that the provisions laid down in Article 6 of the Council Decision, whereby at least 60% of all EEAS staff at AD level are to be permanent EU officials, are reflected in all grades in the EEAS hierarchy;
7. Is of the view that additional specific measures envisaged in Article 6(6) of the Council Decision for the strengthening of the geographical and gender balance should include, as regards geographical balance, measures analogous to those provided for in Council Regulation (EC, Euratom) No 401/2004<sup>1</sup>;
8. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
9. Asks the Council to consult Parliament again if it intends to amend the proposal by the High Representative of the Union for Foreign Affairs and Security Policy;
10. Instructs its President to forward its position to the Council, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission.

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<sup>1</sup> Council Regulation (EC, Euratom) No 401/2004 of 23 February 2004 introducing, on the occasion of the accession of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, special temporary measures for recruitment of officials of the European Communities (OJ L 67, 5.3.2004, p. 1).

**Position of the European Parliament adopted on 8 July 2010 with a view to the adoption of Council decision establishing the organisation and functioning of the European External Action Service**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 27(3) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy ("the High Representative")<sup>1</sup>,

Having regard to the Opinion of the European Parliament<sup>2</sup>,

Having regard to the consent of the Commission<sup>3</sup>,

Whereas:

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

(2) In accordance with Article 21(3), second subparagraph, of the TEU, the Union will ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative, will ensure that consistency and will cooperate to that effect.

(3) The EEAS will support the High Representative, ***who is also a Vice-President of the Commission and the President of the Foreign Affairs Council***, in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union and to ensure the consistency of the EU's external action ***as outlined, notably, in Articles 18 and 27 of the TEU***. The EEAS will support the High Representative in her capacity as President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council. The EEAS will also support the High Representative in her capacity as Vice-President of the Commission, for

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<sup>1</sup> OJ... please, complete the footnotes.

<sup>2</sup> OJ...

<sup>3</sup> OJ...

her responsibilities within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action, without prejudice to the normal tasks of the Commission services.

***(4) In its contribution to the EU external cooperation programmes, the EEAS should seek to ensure that these programmes respond to the objectives for external action as set out in Article 21 of the TEU, in particular its paragraph (2)(d), and that they respect the objectives of EU 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 fulfilment of the objectives of the European Consensus on Development and the European Consensus on Humanitarian Aid.***

(5) It results from the Treaty of Lisbon that, in order to implement its provisions, the EEAS must be operational as soon as possible after the entry into force of that Treaty.

(6) The European Parliament will fully play its role in the external action of the Union, including its functions of political control as provided for in Article 14(1) of the TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with Article 36 of the TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration. The EEAS will assist the High Representative in this regard. ***Specific arrangements should be made with regard to access for Members of the European Parliament to classified documents and information in the area of CFSP. Until the adoption of such arrangements, existing provisions under the 2002 Interinstitutional Agreement on classified documents and information in the area of ESDP will apply.***

(7) The High Representative, or her representative, should exercise vis-à-vis the European Defence Agency, the European Union Satellite Centre, the European Union Institute for Security Studies and the European Security and Defence College the responsibilities provided for in their respective founding acts. The EEAS should provide these entities with the support currently provided by the General Secretariat of the Council.

(8) Provisions should be adopted relating to the staff of the EEAS and their recruitment ***where such provisions are necessary to establish the organisation and functioning of the EEAS. In parallel, necessary amendments should be made, in accordance with Article 336 of the TFEU, to***

*the Staff Regulations of Officials of the European Communities ("Staff Regulations") and the Conditions of Employment of Other Servants of those Communities ("CEOS"), without prejudice to Article 298 of the TFEU. For matters relating to its staff the EEAS should be treated as an institution within the meaning of the Staff Regulations. ■ The High Representative will be the Appointing Authority, in relation both to officials subject to the Staff Regulations ■ and agents subject to the CEOS. The number of officials and servants of the EEAS will be decided each year as part of the budgetary procedure and will be reflected in the establishment plan.*

*(9) The staff members of the EEAS will carry out their duties and conduct themselves solely with the interests of the Union in mind.*

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

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

*(12) The EEAS may, in specific cases, have recourse to specialised seconded national experts (SNEs), over which the High Representative will have authority. Seconded National Experts in post in the EEAS will not be counted in the one third which staff from Member States should represent when the EEAS will reach its full capacity. Their transfer in the phase of setting up of the EEAS will not be automatic and will be made with the consent of the authorities of the originating Member States. By the expiry of the contract of an SNE transferred to the EEAS under Article 7, the function will be converted into a temporary agent post in cases where the function performed by the SNE corresponds to a function normally carried out by staff at AD level, provided that the necessary post is available under the establishment plan.*

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

*(14) The Financial Regulation should be amended in order to include the EEAS in Article 1 of the Financial Regulation, with a specific section in the Union budget. In accordance with applicable rules, and as is the case for other institutions, a part of the annual report of the Court of Auditors will be dedicated also to the EEAS and the EEAS will respond to such reports. The EEAS will be subject to the procedures regarding the discharge as provided for in Article 319 of the TFEU and in Articles 145 to 147 of the Financial Regulation. The High Representative will provide the European Parliament with all support necessary to complete the European Parliament's right as discharge authority. The implementation of the operational budget will be the Commission's responsibility in accordance with Article 317 of the TFEU. Decisions having a financial impact will in particular respect the responsibilities laid down in Title IV of the Financial Regulation, especially Article 75 thereof regarding expenditure operations and Articles 64 to 68 regarding liability of the financial actors.*

*(15) The establishment of the EEAS should be guided by the principle of cost-efficiency aiming towards budget neutrality. To this end, transitional arrangements and gradual build-up of capacity will have to be used. Unnecessary duplication of tasks, functions and resources with other structures should be avoided. All opportunities for rationalisation should be used. <BR>In addition, a number of additional posts for Member States' temporary agents will be necessary, which have to be financed within the framework of the current multi-annual framework.*

(16) Rules should be laid down covering the activities of the EEAS and its staff as regards security, protection of classified information and transparency.

(17) It is recalled that the Protocol on the Privileges and Immunities of the Union applies to the EEAS, its officials and other agents, who shall be subject either to the Staff Regulations or the CEOS.

(18) The European Union and the European Atomic Energy Community continue to be served by a single institutional framework. It is therefore essential to ensure consistency between the external

relations of both, and to allow the Union Delegations to undertake the representation of the European Atomic Energy Community in third countries and at international organisations.

(19) *The High Representative should, by mid-2013, make a review of the functioning and organisation of the EEAS, accompanied, if necessary, by proposals for a revision of this Decision. Such a revision should be adopted no later than the beginning of 2014.*

HAS ADOPTED THIS DECISION:

### **Article 1**

#### **Nature and Scope**

1. This Decision establishes the organisation and functioning of the European External Action Service ("EEAS").
2. The EEAS, which has its headquarters in Brussels, shall be a functionally autonomous body of the European Union, separate from the Commission and the General Secretariat of the Council, with the legal capacity necessary to perform its tasks and attain its objectives.
3. The EEAS shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy ("High Representative").
4. The EEAS shall be made up of a central administration and of the Union delegations to third countries and to international organisations.

### **Article 2**

#### **Tasks**

1. The EEAS shall support the High Representative *in fulfilling her mandates as outlined, notably, in Articles 18 and 27 of the TEU:*
  - in fulfilling her mandate to conduct the Common Foreign and Security Policy ("CFSP") of the European Union, *including the Common Security and Defence Policy ("CSDP"), to contribute by her proposals to the development of that policy, which she*

*shall carry out as mandated by the Council*, and to ensure the consistency of the EU's external action;

- in her capacity of President of the Foreign Affairs Council, without prejudice to the normal tasks of the General Secretariat of the Council;
- 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.

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

### **Article 3**

#### **Cooperation**

1. The EEAS shall *support and* work in cooperation with the *diplomatic services of the Member States as well as with the* General Secretariat of the Council and the services of the Commission **■**, in order to ensure consistency between the different areas of the Union external action and between these and its other policies.
2. The EEAS and the services of the Commission shall consult each other on all matters relating to the external action of the Union *in the exercise of their respective functions except on matters covered by CSDP*. The EEAS shall take part in the preparatory work and procedures relating to acts to be prepared by the Commission in this area. This paragraph shall be implemented in accordance with Chapter 1 of Title V of the TEU, and with Article 205 of the TFEU.
3. The EEAS 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 European Union.
4. The EEAS shall extend appropriate support and cooperation to the other institutions and



bodies of the Union, *in particular to the European Parliament. The EEAS may also benefit from the support and cooperation of these institutions and bodies, including agencies as appropriate. The EEAS internal auditor will cooperate with the internal auditor of the Commission to ensure the consistency of audit policy, with particular reference to the Commission's responsibility for operational expenditure. In addition, the EEAS shall cooperate with the European Office for the Fight against Fraud (OLAF) in accordance with Regulation (EC) No 1073/1999. It shall in particular swiftly adopt the decision required by that Regulation on terms and conditions for internal investigations. As provided in that Regulation, Member States, in accordance with national provisions, and institutions shall give the necessary support to enable OLAF's agents to fulfil their task.*

#### Article 4

##### Central administration

1. The EEAS shall be managed by *an executive* Secretary-General who will operate 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 its administrative and budgetary management. *The Secretary General* shall ensure effective coordination between all departments in the central administration as well as with the Union delegations ■ .
2. The *executive* Secretary-General shall be assisted by two Deputy Secretaries-General.
3. The central administration of the EEAS shall be organised in directorates general. These shall *in particular* include:
  - a number of directorates general comprising geographic 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;
  - a directorate general for administrative, staffing, budgetary, security and communication and information system matters *working in the EEAS framework managed by the executive* Secretary-General. *The High Representative shall appoint, in accordance with the normal rules of recruitment, a Director General for budget and administration who shall work under the authority of the High Representative. He*

*shall be responsible to the High Representative for the administrative and internal budgetary management of the EEAS. He shall follow the same budget lines and administrative rules as applicable in the part of Section III of the EU budget which falls under Heading V of the Multiannual Financial Framework;*

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

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

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

The central administration shall also include:

- *a strategic policy planning department;*
  - a legal department under the administrative authority of the *executive* Secretary-General which shall work closely with the Legal Services of the Council and the Commission;
  - departments for inter-institutional relations, information and public diplomacy, internal audit and inspections, and personal data protection.
4. The High Representative shall designate the chairpersons of Council preparatory bodies that are chaired by a representative of the High Representative, including the chair of the Political and Security Committee, *in accordance with the modalities set out in Annex II 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*<sup>1</sup>.

5. The High Representative and the EEAS shall be supported 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.

## Article 5

### Union delegations

1. The decision to open *or close* a delegation shall be adopted by the High Representative **■**, in agreement with the Council and the Commission.
2. Each Union delegation shall be *placed under the authority of* a Head of Delegation.

The Head of Delegation shall have authority over all staff in the delegation, whatever their status, and for all its activities. He shall be accountable to the High Representative for the overall management of the work of the delegation and for ensuring the coordination of all actions of the Union.

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.

3. The Head of Delegation shall receive instructions from the High Representative 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, *in accordance with article 221(2) of the TFEU*, also issue instructions to delegations, which shall be executed under the overall responsibility of the Head of Delegation.

4. The Head of Delegation shall implement operational credits in relation to EU projects in the

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<sup>1</sup> *OJL 322, 9.12.2009, p. 28.*

corresponding third country, where sub-delegated by the Commission, in accordance with the Financial Regulation.

5. The operation of each delegation shall be periodically evaluated by the Secretary General of the EEAS; evaluation shall include financial and administrative audits. The Secretary General of the EEAS may request to be assisted for this purpose by the relevant Commission departments. ***In addition to internal measures by the EEAS, OLAF shall exercise its powers, notably by conducting anti-fraud measures, in accordance with Regulation (EC) No 1073/1999.***
6. The High Representative shall enter into the necessary arrangements with the host country, the international organisation or the third country concerned. In particular, the High Representative shall take the necessary measures to ensure that the host States grant the Union delegations, their staff and their property, privileges and immunities equivalent to those referred to in the Vienna Convention of 18 April 1961 on Diplomatic Relations.
7. Union delegations shall have the capacity to service the needs of other EU institutions, in particular ■ the European Parliament, in their ■ contacts with the international organisations or third countries to which ***the delegations*** are accredited.
8. The Head of Delegation shall have the power to represent the EU in the country where the delegation is ***accredited***, in particular for the conclusion of contracts and being a party to legal proceedings.
9. The Union delegations shall work in close cooperation ***and share information*** with the diplomatic services of the Member States. ■
10. The Union delegations shall, ***acting in accordance with the third subparagraph of Article 35 the TEU and*** upon request by Member States, support the Member States in their diplomatic relations and in their role of providing consular protection to Union citizens in third countries.

## Article 6

### Staff

1. ***The provisions set out in this Article, except paragraph 3, shall apply without prejudice to***

*the Staff Regulations of Officials of the European Communities ("Staff Regulations") and the Conditions of Employment of Other Servants of those Communities ("CEOS"), including the amendments made to these rules, in accordance with Article 336 of the TFEU, in order to adapt them to the needs of the EEAS.*

2. The EEAS shall comprise █ officials and other servants of the European Union, including personnel from the diplomatic services of the Member States appointed as temporary agents<sup>1</sup>.

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

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

*The High Representative shall adopt the rules, equivalent to those laid down in Council Decision 2003/479/EC as amended by Council Decision 2007/829/EC of 5 December 2007<sup>2</sup>, under which SNEs are put at the disposal of the EEAS in order to provide specialised expertise.*

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

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5. The powers conferred on the appointing authority by the Staff Regulations and on the authority authorised to conclude contracts by the *CEOS* shall be vested in the High Representative, who may delegate those powers inside the EEAS.

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

<sup>2</sup> *OJ L 327, 13.12.2007, p. 10.*

6. **Recruitment** in the EEAS shall be based on merit *whilst ensuring adequate geographical and gender balance*. The staff of the EEAS shall comprise a meaningful presence of nationals from all the Member States. *The review foreseen in 2013 shall also cover this issue, including, as appropriate, suggestions for additional specific measures to correct possible imbalances.*
7. **Officials** of the European Union and temporary agents coming from the diplomatic services of the Member States *shall have the same rights and obligations* and be treated equally, in particular as concerns eligibility to assume all positions under equivalent conditions. No distinction shall be made between temporary agents coming from national diplomatic services and officials of the European Union as regards the assignment of duties to perform in all areas of activities and policies implemented by the EEAS. *In accordance with the provisions of the Financial Regulation, the Member States shall support the Union in the enforcement of financial liabilities resulting from any liability under Article 66 of the Financial Regulation of EEAS temporary agents coming from national diplomatic services.*
8. The High Representative shall establish the selection procedures for EEAS staff, which shall be *undertaken through a transparent procedure* based on merit *with the objective of securing the services of staff of the highest standard of ability, efficiency and integrity while ensuring adequate geographical and gender balance and a meaningful presence of nationals from all EU Member States in the EEAS*. Representatives of the Member States, the General Secretariat of the Council and the Commission shall be involved in the recruitment procedure for vacant posts in the EEAS. ■
9. When the EEAS has reached its full capacity, staff from Member States, *as referred to in paragraph 2, first subparagraph*, should represent at least one third of all EEAS staff at AD level. *Likewise, permanent EU officials should represent at least 60% of all EEAS staff at AD level, including staff coming from the diplomatic services of the Member States, who have become permanent EU officials, in accordance with the provisions of the Staff Regulations*. Each year, the High Representative shall present a report to the *European Parliament and the Council* on the occupation of posts in the EEAS.

10. The High Representative shall lay down the rules on mobility so as to ensure that the members of the staff of the EEAS are subject to a **high** degree of mobility. Specific modalities shall apply to the personnel referred to in Article 4 (3), third **indent**. In principle, all EEAS staff shall periodically serve in Union delegations. The High Representative shall establish rules to that effect.
  
11. In accordance with the applicable provisions of its national law, each Member State shall provide its officials who have become temporary agents in the EEAS with a guarantee of immediate reinstatement at the end of their period of **service** to the EEAS. ***This period of service, in accordance with the provisions of Article 50b of CEOS, shall not exceed eight years, unless, it is extended for a maximum period of two years in exceptional circumstances and in the interest of the service.***

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

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

## Article 7

### *Transitional provisions regarding staff*

1. *The relevant departments and functions in the General Secretariat of the Council and in the Commission listed in the Annex shall be transferred to the EEAS. Officials and temporary agents occupying a post in departments or functions listed in the Annex shall be transferred to the EEAS. This shall apply mutatis mutandis to contract and local staff assigned to such departments and functions. SNEs working in those departments or functions shall also be transferred to the EEAS with the consent of the authorities of the originating Member State.*

*These transfers shall take effect on 1 January 2011.*

*In accordance with the Staff Regulations, upon their transfer to the EEAS, the High Representative shall assign each official to a post in his function group which corresponds to his grade.*

2. *The procedures for recruiting staff for posts transferred to the EEAS which are on-going at the date of entry into force of this Decision shall remain valid: they shall be carried on and completed under the authority of the High Representative in accordance with the relevant vacancy notices and the applicable rules of the Staff Regulations and the CEOS.*

## Article 8

### Budget

1. *The duties of authorising officer for the EEAS section of the General Budget of the European Union shall be delegated in accordance with Article 59 of the Financial Regulation. The High Representative shall adopt the internal rules for the management of the administrative budget lines. Operational expenditure shall remain within the Commission section of the budget.*
2. The EEAS shall exercise its powers in accordance with the Financial Regulation applicable to the general budget of the Union within the limits of the appropriations allocated to it.
3. *When drawing up estimates of administrative expenditure for the EEAS, the High*



*Representative will hold consultations with, respectively, the Commissioner for Development Policy and the Commissioner for Neighbourhood Policy regarding their respective responsibility.*

4. *In accordance with Article 314(1) of the TFEU, the EEAS shall draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget, which may contain different estimates. The Commission may amend the draft budget as provided for in Article 314(2) of the TFEU.*
5. *In order to ensure the budgetary transparency in the area of external action of the Union, the Commission will transmit to the budgetary authority, together with the Draft EU Budget, a working document presenting, in a comprehensive way, all expenditure related to the external action of the Union.*
6. The EEAS shall be subject to the procedures regarding the discharge provided for in Article 319 of the Treaty on the Functioning of the European Union and in Article 145 to 147 of the Financial Regulation. *The EEAS will, in this context, fully cooperate with institutions involved in the discharge procedure and provide, as appropriate, the additional necessary information, including through attendance in meetings of the relevant bodies.*

## Article 9

### *External Action Instruments and programming*

1. *The management of EU external cooperation programmes is under the responsibility of the Commission without prejudice to role of the Commission and of the EEAS in programming as set out in the following paragraphs.*
2. *The High Representative shall ensure overall political coordination of the EU's external action, ensuring the unity, consistency and effectiveness of the EU's external action in particular through the external assistance instruments:*
  - the Development Cooperation Instrument,
  - the European Development Fund,
  - the European Instrument for Democracy and Human Rights,
  - the European Neighbourhood and Partnership Instrument,

- the Instrument for Cooperation with Industrialised Countries,
- the Instrument for Nuclear Safety Cooperation,
- *the Instrument for Stability, regarding the assistance foreseen in article 4 of Regulation (EC) No. 1717/2006 of 15 November 2006.*

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

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

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

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

Thematic programmes, *except the European Instrument for Democracy and Human Rights, as well as the Instrument for Nuclear Safety Cooperation and the part of the Instrument for Stability referred to in the seventh indent of paragraph 2, shall be prepared by the*

appropriate Commission Service under the guidance of the Commissioner responsible for Development and presented to the College in agreement with the High Representative and other relevant Commissioners.

5. With regard to European Neighbourhood and Partnership Instrument, any proposals, including those for changes in the basic regulations and the programming documents in paragraph 3 above, shall be prepared *jointly* by the relevant services in the EEAS and in the Commission under the *responsibility* of the Commissioner responsible for Neighbourhood Policy and then jointly submitted with the High Representative for decision by the Commission.
6. *Actions undertaken under the CFSP budget, the Instrument for Stability except the part referred to in the seventh indent of paragraph 2, the Instrument for Cooperation with Industrialised Countries, the Communication and Public Diplomacy as well as the Election Observation Missions are under the responsibility of the High Representative/EEAS. The Commission shall be responsible for their financial implementation under the authority of the High Representative in her capacity as Vice-President of the Commission.<sup>1</sup>. The Commission department responsible for this implementation shall be co-located with the EEAS.*

#### Article 10

##### Security

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

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<sup>1</sup> *The Commission will make a declaration to the effect that the High Representative will have the necessary authority in this area, in full respect of the Financial Regulation.*

*Decision 2001/264/EC;*

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

3. The EEAS shall have a department responsible for security matters, which shall be assisted by the competent services of the Member States.
4. The High Representative shall take any measure necessary in order to implement security rules in the EEAS, in particular as regards protection of classified information and the measures to be taken in the event of failure by EEAS staff to comply with the security rules. For that purpose, the EEAS shall seek advice from the Security Office of the General Secretariat of the Council, from the relevant services of the Commission and from the relevant services of the Member States.

Article 11

Access to documents, archives and data protection

1. The EEAS shall apply the rules laid down in Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. The High Representative shall decide on the implementing rules for the EEAS.
2. The Secretary General of the EEAS shall organise the archives of the Service. The relevant archives of the departments transferred from the General Secretariat of the Council and the Commission shall be transferred to the EEAS.
3. The EEAS shall protect the individuals with regard to the processing of 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. The High Representative shall decide on the implementing rules for the EEAS.

Article 12

## Immovable property

1. The General Secretariat of the Council and the relevant Commission services shall take all necessary measures so that the transfers referred to in **Article 7** can be accompanied by the transfers of the Council and Commission buildings necessary for the functioning of the EEAS.
2. The terms on which immovable property is made available to the EEAS central administration and to the Union delegations shall be decided on jointly by the High Representative and the General Secretariat of the Council and the Commission, as appropriate.

## Article 13

### Final provisions

1. The High Representative, the Council, the Commission and the Member States shall be responsible for implementing this Decision and shall take all measures necessary to do so.
2. The High Representative shall submit a report to the **European Parliament**, the Council **and the Commission** on the functioning of the EEAS no later than the end of 2011. ***This report shall in particular cover the implementation of the provisions of Article 5(3) and (10) and of Article 9.***
3. ***By mid-2013, the High Representative shall make a review of the functioning and organisation of the EEAS, which will cover inter alia the implementation of the provisions of Article 6(8) and (11). This review, shall, if necessary, be accompanied by appropriate proposals for revision of this Decision. In this case, the Council, in accordance with Article 27(3) TEU shall, revise this Decision in the light of the review no later than the beginning of 2014*** ■ .
4. This Decision shall enter into force on the date of its adoption. Its provisions on financial management and recruitment ■ shall ***take effect*** once the necessary amendments to the Staff Regulations and the Financial Regulation, as well as the amending budget, have been adopted. ***Arrangements*** shall be entered into by the High Representative, the General Secretariat of the Council and the Commission, and consultations shall be undertaken with the Member States ***to ensure a smooth transition.***

5. At the latest one month after the entry into force of this Decision, the High Representative 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.
6. This Decision shall be published in the Official Journal of the European Union.

Done at Brussels, [date]

*For the Council*  
*The President*

## DEPARTMENTS AND FUNCTIONS TO BE TRANSFERRED TO THE EEAS<sup>1</sup>

The following is a list of all the administrative entities to be transferred en bloc to the EEAS. This does not prejudge the additional needs and the allocation of resources to be determined in the overall budget negotiations establishing the EEAS, nor decisions on the provision of adequate staff responsible for support functions, and the linked need for service-level agreements between the General Secretariat of the Council and the Commission and the EEAS.

### 1. GENERAL SECRETARIAT OF THE COUNCIL

All staff in the departments and functions listed below shall be transferred en bloc to the EEAS, except for a very limited number of staff to perform the normal tasks of the General Secretariat of the Council in line with Article 2(1), second indent, and for certain specific functions which are indicated below:

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<sup>1</sup> The human resources to be transferred are all financed from the expenditure heading 5 (Administration) of the multiannual financial framework.

## Policy Unit

### ESDP and crisis management structures

- Crisis Management and Planning Directorate (CMPD)
- Civilian Planning and Conduct Capability (CPCC)
- European Union Military Staff (EUMS)
  - Departments under the direct authority of DGEUMS
  - Concepts and Capability Directorate
  - Intelligence Directorate
  - Operations Directorate
  - Logistics Directorate
  - Communications and Information Systems Directorate
- EU Situation Centre (SITCEN)

Exception:

- Staff in the SITCEN supporting the Security Accreditation Authority

### Directorate-General E

- Entities placed under the direct authority of the Director-General
- Directorate for the Americas and the United Nations
- Directorate for the Western Balkans, Eastern Europe and Central Asia
- Directorate for Non-Proliferation of Weapons of Mass Destruction
- Directorate for Parliamentary affairs in the area of CFSP
- New York Liaison Office
- Geneva Liaison Office

GSC officials on secondment to European Union Special Representatives and CSDP missions.

## 2. COMMISSION (INCLUDING DELEGATIONS)

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



### Directorate-General for External Relations

- All hierarchy posts ***and support staff directly attached to them***
- Directorate A (Crisis Platform and policy coordination in CFSP)
- Directorate B (Multilateral Relations and Human Rights)
- Directorate C (North America, East Asia, Australia, New Zealand, EEA, EFTA, San Marino, Andorra, Monaco)
- Directorate D (European Neighbourhood Policy Coordination)
- Directorate E (Eastern Europe, Southern Caucasus, Central Asia Republics)
- Directorate F (Middle East, South Mediterranean)
- Directorate G (Latin America)
- Directorate H (Asia (except Japan and Korea))
- Directorate I (Headquarters resources, information, inter-institutional relations)
- Directorate K (External Service)
- Directorate L (Strategy, Coordination and Analysis)
- Task Force on the Eastern Partnership
- Unit Relex-01 (audit)

Exceptions:

- Staff responsible for the management of financial instruments
- Staff responsible for the payment of salaries and allowances to staff in delegations

### External Service

- All Heads of Delegation and Deputy Heads of Delegation ***and support staff directly attached to them***
- All Political Sections or cells and staff
- All information and public diplomacy sections and staff
- All Administration sections

Exceptions

- Staff responsible for the implementation of financial instruments

### Directorate-General for Development

- Directorate D (ACP II – West and Central Africa, Caribbean and OCT) except OCT task force
  - Directorate E (Horn of Africa, East and Southern Africa, Indian Ocean and Pacific)
  - Unit CI (ACP I: Aid programming and management): Staff responsible for programming
  - Unit C2 (Pan-African issues and institutions, governance and migration): Staff responsible for Pan-African relations
  - Applicable hierarchy posts *and support staff directly attached to them*
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## **DECLARATION BY THE HIGH REPRESENTATIVE<sup>1</sup> ON POLITICAL ACCOUNTABILITY**

In her relationship with the European Parliament, the High Representative (HR) will build on the consultation, information and reporting engagements undertaken during the last legislature by the former Commissioner for external relations, the former High Representative for the Common Foreign and Security Policy, as well as by the rotating Council Presidency. Where necessary, these engagements will be adjusted in light of Parliament's role of political control and the redefinition of the role of the High Representative as set out by the Treaties and in accordance with Article 36 TEU.

In this regard:

1. On CFSP, the HR will seek the views of the European Parliament on the main aspects and basic choices of this policy in conformity with Article 36 TEU. Any exchanges of views prior to the adoption of mandates and strategies in the area of CFSP will take place in the appropriate format, corresponding to the sensitivity and confidentiality of the topics discussed. In this context, also the practice of Joint Consultation Meetings with the Bureaux of AFET and COBU will be enhanced. Briefings given at these meetings will relate in particular to CFSP missions financed out of the EU budget, both to those being implemented and those under preparation. If necessary, additional Joint Consultation Meetings may be arranged, on top of regular meetings. The EEAS presence (at all the meetings) will include in addition to the permanent Chair of the Political and Security Committee, senior officials responsible for the policy.

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<sup>1</sup> Footnote: The term HR in this declaration covers all functions of the High Representative of the Union for Foreign Affairs and Security Policy, who is also a Vice-President of the European Commission, and the President of the Foreign Affairs Council without prejudice to the specific responsibilities under the specific functions she exercises.

2. The results of the ongoing negotiations on the Framework Agreement between the European Parliament and the Commission on negotiations of international agreements will be applied *mutatis mutandis* by the HR for agreements falling under her area of responsibility, where the consent of the Parliament is required. The European Parliament will be, in accordance with Article 218 (10) TFEU, immediately and fully informed at all stages of the procedure, including for agreements concluded in the area of CFSP.
3. The HR will continue the practice of holding in-depth dialogue on and of communicating all documents for the strategic planning phases of the financial instruments (except European Development Fund). The same will apply to all consultative documents submitted to Member States during the preparatory phase. This practice is without prejudice to the outcome of negotiations on the scope and application of Article 290 of the TFEU on delegated acts.
4. The present system of providing confidential information on CSDP missions and operations (through the IIA 2002 ESDP EP Special Committee) will be continued. The HR can also provide access to other documents in the CFSP area on a need to know basis to other MEPs, who, for classified documents, are duly security cleared in accordance with applicable rules, where such access is required for the exercise of their institutional function on the request of the AFET Chair, and, if needed, the EP President. The HR will, in this context, review and where necessary propose to adjust the existing provisions on access for Members of European Parliament to classified documents and information in the field of security and defence policy (2002 IIA ESDP). Pending this adjustment, the HR will decide on transitional measures that she deems necessary to grant duly designated and notified MEPs exercising an institutional function easier access to the above information.
5. The HR will respond positively to requests from the European Parliament for newly appointed Heads of Delegations to countries and organisations which the Parliament considers as strategically important to appear before AFET for an exchange of views (differing from hearings) before taking up their posts. The same will apply to EUSRs. These exchanges of views will take place in a format agreed with the HR, corresponding to the sensitivity and confidentiality of the topics discussed.
6. In cases where the High Representative cannot participate in a debate in the plenary of the European Parliament, she will decide on her replacement by a Member of an EU institution, that is either by a Commissioner for issues falling exclusively or prevailing into Commission

competence or a Member of the Foreign Affairs Council for issues falling exclusively or principally into the area of CFSP. In the latter case, that replacement will either come from the rotating Presidency or from the trio Presidencies, in conformity with Article 26 of the Council's Rules of Procedure. The European Parliament will be informed of the High Representative's decision on replacement.

7. The HR will facilitate the appearance of Heads of Delegations, EUSRs, Heads of CSDP missions and senior EEAS officials in relevant parliamentary committees and subcommittees in order to provide regular briefings.
8. For military CSDP operations, financed by the Member States, information will continue to be provided through the IIA 2002 ESDP EP Special Committee subject to any revision of the IIA, in accordance with point 4 above.
9. The European Parliament will be consulted on the identification and planning of Election Observation Missions and their follow-up - in keeping with Parliament's budgetary scrutiny rights over the relevant funding instrument, i.e. the EIDHR. The appointment of EU Chief Observers will be done in consultation with the Election Coordination Group, in due time before the start of the Election Observation Mission.
10. The HR will play an active role in the upcoming deliberations on the updating of existing arrangements regarding the financing of CFSP contained in the 2006 IIA on budgetary discipline and sound financial management, based on the engagement with regard to the issues set out in point 1. The new budgetary procedure introduced by the Lisbon Treaty will apply fully to the CFSP budget. The High Representative will also work for greater transparency on the CFSP budget, including, inter alia, the possibility to identify major CSDP-missions in the budget (like the present missions in Afghanistan, Kosovo and Georgia), while preserving flexibility in the budget and the need to ensure continuity of action for missions already engaged.

## **Statement given by the High Representative in the plenary of the European Parliament on the basic organisation of the EEAS central administration**

The HR will establish in the EEAS the services and functions necessary to fulfil its objectives and to strengthen the EU's capacity for consistent external action, while avoiding duplication. Where necessary, she will ensure that appropriate proposals are submitted to the budgetary authority.

The services and functions will be adapted over time in light of new priorities and developments.

The EEAS will from the start include, inter alia, the following departments:

- A Department assisting the HR in her institutional relations with the European Parliament as laid down in the treaties and in the Declaration on Political Accountability and with national Parliaments.
- A department assisting the HR in her task of ensuring consistency of the Union's external action. This department will inter alia provide input to and ensure follow up to the regular meetings of the HR with other members of the Commission. The Department will at service level assure the necessary interaction and coordination with competent Commission services concerning the external aspects of internal policies.
- A Director General for Budget and Administration. This will be a senior figure in the EEAS with proven experience of EU budget and administration.

Crisis management and peacebuilding: the CSDP structures will be part of the EEAS in the way agreed by the European Council in October 2009 and as foreseen in the EEAS Decision. The appropriate structure is to integrate relevant units in the Commission dealing with crisis response and peace building.

The High Representative will ensure that the relevant units from the Commission transferred to the EEAS which deal with planning and programming of crises response, conflict prevention and peace building, and the CSDP structures, work in close cooperation and synergy, both under her direct responsibility and authority, within the appropriate structure. This is of course without prejudice to the specific nature, notably intergovernmental and communitarian, of the policies.

Under the direct authority and responsibility of the High Representative, full coordination between all the services of the EEAS, in particular between the CSDP structures and the other relevant services of the EEAS will be ensured, respecting the specificities of these structures.

The HR will ensure that the necessary coordination is established between the EU Special Representatives and the relevant Departments in the EEAS.

The HR will give high priority to the promotion of Human Rights and good governance around the globe and promote its mainstreaming into external policies, throughout the EEAS. There will be human rights and democracy structure at headquarters level as well as focal points in all relevant Union delegations with the task of monitoring the human rights situation and promoting an effective realisation of EU human rights policy goals.