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**BETWEEN DEMOCRACY AND DIPLOMACY:
THE ROLE OF THE EUROPEAN PARLIAMENT
IN THE ESTABLISHMENT AND FUNCTIONING
OF THE EUROPEAN EXTERNAL ACTION
SERVICE**

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Introduction

A. The European Union Common Foreign Policy

The project of a common foreign policy has been one of the most controversial issues along the process of EU integration. In this field, the integration process has been characterized by ups and downs, obstacles and inconsistencies and a limited number of steps towards a full cooperation between Member States (MS), as well as towards a more democratically accountable way of pursuing the objectives of foreign policies¹. The first legal basis introducing the Common Foreign and Security Policy (CFSP) was established by the Treaty of Maastricht in 1992. In this field, ruled by the intergovernmental method, the European parliament (EP) had an influence limited to making recommendations and addressing question to the Council². A truly EU foreign policy was not developed and the situation was not altered by the Treaty of Amsterdam (1997) nor with the Treaty of Nice (2001)³.

B. The Lisbon Treaty and the High Representative of the Union for Foreign Affairs and Security Policy/ Vice-President of the European Commission

A big step forward in the creation of a stronger EU common foreign policy has been made, in 2007, when the Treaty of Lisbon was signed. It entered into force in 2009, following the failure of the project for a European Constitution. The Lisbon Treaty established the figure of the High Representative of the Union for Foreign Affairs and Security Policy (HR), presiding over the Foreign Affairs Council and acting as Vice-President of the European Commission (EC). The HR has the role of coordinating the EU's foreign policy – known as the 'Common Foreign and Security Policy' (CFSP) and the 'Common Security and Defence Policy' (CSDP).

The High Representative's role is wide-ranging. It involves:

- Steering foreign policy on behalf of the EU;
- Coordinating the EU's foreign policy tools – development assistance, trade, humanitarian aid and crisis response - as the Vice-President of the EC;
- Building consensus between the 28 EU countries and their respective priorities
- Attending regular meetings between leaders of EU countries in the European Council;
- Representing the EU at international fora, such as the United Nations;
- Heading the European Defence Agency and the EU Institute for Security Studies.

¹ W. Wallace, *Policy-making in the European Union*, 430 (Oxford: H. Wallace, W. Wallace & M. Pollack eds., U. Press, 2005).

² Treaty on European Union, OJ 1992, C 191 (Title 5, ch. 2, Art. 21) Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:xy0026>.

³ M. Telò, *Dallo Stato all'Europa*, Carocci, Roma (2014).

C. The European External Action Service

The Treaty of Lisbon, put in place a new institutional innovation to support the HR: the European External Action Service (EEAS). The EEAS has the duty to assist the HR and to work "in cooperation with the diplomatic services of the Member States"⁴. In fact, one of the main aspirations of the Treaty of Lisbon was endowing the EU with strengthened tools and instruments to assume a relevant role with its external action at global level. In this perspective, the role of the EU correspond to assuming the responsibilities of a 500 million people Union and of the largest trade market in the world in major global processes. The Lisbon Treaty in setting a reformed and lasting institutional framework, requires the EU to ensure consistency, effectiveness and coherence in its external policies and actions. The EEAS provides an opportunity for the EU to bring greater coherence to EU external action.

D. Empowering the European Parliament

At the same time the Lisbon Treaty provided the European Parliament with a number of new powers. A common feature of the evolution of the European integration and of the modification of the Treaties was an increase in the role and powers of the European Parliament. This had a double function: on the one hand contributed to the deepening of the European integration by strengthening of EU's supranational institutions (counterbalancing the intergovernmental ones, namely the Council); on the other hand it allowed the EU to increase its legitimacy and proximity with respect to the European citizens. In this way the Parliament has acquired more democratic, supervisory and legislative powers with each new Treaty. In 1979 the first were held the first European Parliament elections with universal suffrage. New additions with the Single European Act (Treaty signed in 1986) ensured that Parliament's assent is mandatory before a new country can join the EU. The Amsterdam Treaty (signed in 1997) gave a much stronger position to the Parliament in co-legislating with the Council on a whole range of areas that are subject to EU law (consumer protection, ability to work legally in another country and environmental issues, to name a few).

In line with this tradition also the Lisbon Treaty extended the Parliament's powers. The so-called "co-decision method" was expanded to a larger number of competences of the EU, establishing the ordinary legislative procedure in which the European Parliament (EP) has an equal role to the European Council. In addition to that the EP was granted with the power to

⁴ Art.27 (3) Treaty on the European Union (TEU).

approve or reject, international agreements when affecting the EU budget. Another important power acquired by the EP is the budgetary power, on which the Parliament has the final say.

These two trends (the creation of the EEAS and the empowering of the European Parliament) highlight how one of the goal of the Treaty of Lisbon was to enable the EU to have a strong and coherent voice on the international scene, supported by an increased legitimacy due to the involvement of the Parliament. However the outcome of the Treaty of Lisbon leaves the CFSP and the CSDP decision-making mainly in the hands of the Council and in particular ruled by an intergovernmental method in which unanimity on decisions is required⁵.

E. Scope and Research Questions

To shed light on the consequences of these trends (the creation of the EEAS and its link with the empowerment of the European Parliament) is the main purpose of this thesis. In particular, to analyse the role that the democratic institution of the EU, the European Parliament, managed to have in the establishment and functioning of the new diplomatic apparatus of the EU, the European External Action Service. The goal is to investigate on the consequences in terms of inter-institutional relationships of the new set-up created with the Treaty of Lisbon. This will help to understand whether the intention, (by the Lisbon Treaty negotiators) to limit the Parliament to a marginal role with respect to the EEAS and more generally on CFSP, was counterbalanced after the Lisbon Treaty entered into force by inter-institutional dynamics. Aside the general aim of the thesis there are three specific objective that this work of research aims to achieve:

- i) Analyse the role of the European Parliament in the establishment of the European External Action Service;**
- ii) Analyse the role of the European Parliament in the functioning of the European External Action Service;**
- iii) Discuss how the European External Action Service can increase its democratic accountability and legitimacy through its relationship with the European Parliament.**

⁵ D. Mahncke, *European Union Diplomacy: Coherence, Unity and Effectiveness*, Gstöhl, Sieglinde (eds.), Brussels (2012).

These three objectives are mirrored in the three chapters of the thesis.

Chapter 1.

The establishment of the European External Action Service and the role of the European Parliament in this process

In order to analyse the role of the European Parliament in the establishment and the functioning of the EEAS, it is fundamental to start considering the process of creation of this new institution. As briefly recalled in the introduction, the Lisbon Treaty opened the doors to the creation of a new institution that could support the HR in his/her, enhancing the coherence and effectiveness of the EU's external relations. A structure with a crucial role in the future, to ensure space for coordination between the different areas of the EU's external relations: from political affairs to trade, from development and cooperation to humanitarian aid (currently under the responsibility of the EC). The mandate of the EEAS is laid down under article 27 TEU⁶ of the Treaty on the European Union:

[...] In fulfilling his mandate, the HR shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the HR after consulting the European Parliament and after obtaining the consent of the Commission.

This procedure, as stated in art. 27 TEU, does not leave any formal power to the EP, similar or equivalent to a veto power. However, as it was mentioned above⁷, the legal framework created by the Treaty of Lisbon enabled the EP to gain powers in the area of foreign policy, both directly and indirectly. Within these powers, the first one is the so-called "consent procedure". This procedure gives the EP veto powers over international agreements involving important budgetary implications as well as in areas where the ordinary legislative procedure apply⁸. *Inter alia* these acts include accession agreements for EU's membership⁹ or withdrawal¹⁰. The second main instrument that the EP gained as an outcome of the Lisbon Treaty is the general budgetary power. The EP also was accorded with the legitimacy and the

⁶ Art. 27 of TEU <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12007L/TXT> .

⁷ See introduction paragraphs.

⁸ The only exception is represented by international agreements, which are exclusively part of the CFSP.

⁹ Art. 49 TEU.

¹⁰ Art. 50 TEU.

capacity of having the final say on EU's budget. In this way, the Parliament gained an indirect veto concerning the EU's expenditures on external relations.

In this regard, the aim is to analyse how, following the procedure of art. 27, the creation of the EEAS has been the result of a bargaining process that started from the proposal made by the HR, Catherine Ashton on the 25th of March 2010, successively continued with the consultation of the EP, the consent of the EC and concluded with the approval of the Council on the 25th of July 2010¹¹. The comparison between HR's first proposal and the Council's final decision will support an evaluation on how and in what the European Parliament played/claimed a role in the establishment of the European External Action Service, even though it was not formally granted with these powers by the Lisbon Treaty.

To better track how and where the European Parliament had major influence, two Parliamentary documents are considered as indicative of the position of the EP during the time of negotiation between March and July 2010. These documents are the following: "Proposal for the establishment of the EEAS"¹² and "Report on the proposal for a Council Decision establishing the organization and functioning of the EEAS"¹³.

The first consideration comparing Ashton's first proposal and the second document of the EP, is that the text almost doubled from 4.447 words to about 7.500. In the report of the 6th of July the EP presents a series of amendments to the HR's proposal. It is useful and interesting to compare them to understand on what issues the European Parliament tried to push and to finally verify how much of its contributions were included in the Council's final decision. Many committees of the European Parliament were involved in producing the report: Committee on Foreign Affairs, on Constitutional Affairs, on Development, on International Trade, on Budgets, on Budgetary Control, and on Women's Rights and Gender Equality.

¹¹ Council of the European Union, *Council Decision Establishing the Organization and the Functioning of the European External Action Service*, 11665/1/10 REV 1, July 2010. Available at: <http://register.consilium.europa.eu/pdf/en/10/st11/st11665-re01.en10.pdf> .

¹² European Parliament, *Proposal for the Establishment of the EEAS: Working Document by Elmar Brok and Guy Verhofstadt*, Apr. 6, 2010' (2010b). Available at: www.europarl.europa.eu/meetdocs/2009_2014/documents/afco/dv/working-doc-eeas-final-06/working-doc-eeas-final-0604.pdf .

¹³ European Parliament, *Report on the Proposal for a Council Decision Establishing the Organization and Functioning of the European External Action Service* (July 6, 2010) (2010c). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?language=EN&reference=A7-0228/2010> .

The main issues raised by the EP in the report concerned budget, access to documents, archives and data protection, gender, staff and the obligation for the EEAS and in particular for the HR to report and to consult the Parliament regularly on the functioning of the service.

1.1 The "Council Decision Establishing the Organization and the Functioning of the European External Action Service, 11665/1/10 REV 1, July 20, 2010"

The final decision of the Council establishing the EEAS on the 20th of July 2010 maintained the same structure of the HR's proposal reviewed by the EP. This allows to a comparison to acknowledge whether the amendments proposed by the EP were taken into account and included in the Council's final decision.

1.1.1 Budget

The Council's final decision, following the mandate given by the Treaties to the EP, highlighted the Parliament's budgetary prerogatives. The EEAS budget will be included in the Union's budget and the HR will provide the European Parliament with all necessary support for the exercise of its budgetary authority¹⁴. Budgetary accountability of the EEAS was one of the key issues for the Parliament and these provisions are in both the reports of the EP.

1.1.2 Staff

Linked to budget issues there is the decision, that will have to be taken yearly, on the number of officials and servants of the EEAS. This decision, according to the Council, will be taken as part of the general budgetary procedure and reflected in the establishment plan. Therefore the Parliament will be involved in this procedure. The provisions of staff loyalty and seconded national experts, which were not part of the HR's proposal, were included in the Council final decision, coming directly from the reports of the EP. However, MEPs could not achieve the goal of regular hearings of top EEAS staff prior to taking up their posts. Article 6, paragraph 9, regulates staff quotas. This was a new element, introduced by the Parliament's proposals. According to this provision seconded staff from MS should represent at least one third of all EEAS at AD (Administrative level)¹⁵. Additionally, the final Council decision states that permanent officials of the EU should represent at least 60% of all EEAS staff at

¹⁴ Recital 14 of the: Council of the European Union, *Council Decision Establishing the Organization and the Functioning of the European External Action Service*, 11665/1/10 REV 1, July 26, 2010' (2010b), http://www.eeas.europa.eu/background/docs/eeas_decision_en.pdf

¹⁵ EP Rapporteurs had requested that more than a half of all AD staff should be transferred from the Commission.

AD level. On the contrary, the EP could not achieve that the HR should report yearly to the Parliament on the occupation of posts in the EEAS.

1.1.3 Access to documents and information sharing

Under the strong demand for democratic accountability from the EP and rapporteurs of the EEAS, the Council granted access to the Members of the European Parliament to classified EEAS documents and information. On the other hand the parliamentary demand to regulate access to documents in a separate agreement with special arrangements for parliamentary delegations to third countries was not accorded.

1.1.4 Reports and EP's involvement

Article 13, paragraph 2 of the final Council decision states that "The HR shall submit a report to the EP, the Council and the Commission on the functioning of the EEAS". This clearly enhances the position of the EP in the field CFSP and more generally in the field of external relations, by being legitimized with the same status of the Council and the Commission.

1.2 The role of the European Parliament in the negotiations

This first section highlights how the EP was allowed to influence the drafting procedure of the establishment of the European External Action Service. While formally the Treaties gave only the right to the Parliament to be consulted (and the obligation for the Council to do it), *de facto*, the EP was able to go beyond consultation and present demands and requests, which were included in the final Council decision¹⁶. Even though not all demands were finalized, comparing the different texts it is clear that from a quantitative perspective the role of the EP could have been equal to the one of the HR and that from a qualitative perspective through the negotiations the EP obtained more than consultation: it obtained compromise between the institutions¹⁷. Before further analysing the current functioning of the EEAS it is important to reflect on why, on the one hand, the EP managed to have a strong influence on the final outcome of the negotiation and why, on the other hand, the other institutions (EC, Council and the HR) and Member States allowed it. This is particularly puzzling and interesting, especially considering the fact that the drafting procedure of an institution is a zero-sum game in terms of influence.

¹⁶ Z. Murdoch, *Negotiating the EEAS: Analysing the External Effects of Internal (Dis)Agreement*, JCMS Volume 50, Number 6. (2012): 1011–1027.

¹⁷ E. Wisniewski, *The Influence of the European Parliament on the European External Action Service*, European Foreign Affairs Review 18, no.1 (2013): 81-102.

Chapter 2.

The functioning of the European External Action Service:

What role for the European Parliament?

The second part of this work is focused on analysing the role of the European Parliament, in influencing the functioning of the European External Action Service. The EP's actions have an impact in shaping the policies of the High Representative and the EEAS through a number of areas in which the EP has competences.

2.1 Legislative elements

The specific intergovernmental characteristic of the CFSP, including Common Security and Defence Policy (CSDP), was maintained by the Lisbon Treaty. This entails unanimous decision making of the Council and limited role the European Parliament.

Nevertheless the European Parliament has some powers and rights. The most important article, in this sense, is art. 36 TEU that covers the role of the EP in CSFP/CSDP matters:

"The HR of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.

The European Parliament may ask questions of the Council or make recommendations to it and to the HR. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the common security and defence policy."

Art. 36 TEU, first established a duty for the HR to consult regularly with the EP on the main aspects and basic choices of the CFSP/CSDP. It refers also to the possibility of involving the special EU representatives in briefing the EP. Furthermore (at least) twice a year the HR will participate to a debate in the EP on progress implementing CFSP/CSDP. Secondly, art. 36 states that the HR not only has to consult the EP on major foreign policy issues, but it also has to "ensure that the views of the European Parliament are duly taken into consideration". Thirdly art. 36 gives power to the EP to ask questions and make recommendations.

Another important power for the EP is laid down in art. 218 TFEU. Art. 218 deals with the procedure of concluding agreements between the EU and third countries or international organizations. In the following cases the consent of the European Parliament is required: (i) association agreements; (ii) agreement on accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms; (iii) agreements establishing specific institutional frameworks and organising cooperation procedures; (iv) agreements with important budgetary implications for the Union; (v) agreements covering fields to which either the ordinary or special legislative procedure applies.

In conclusion, even though the European Parliament was not included in the decision making process in the CFSP/CSDP area, with sovereignty retained by the MS, art. 36 TEU and art. 218 TFEU leave the EP a role to play, in terms of legislative power.

2.2 Consultative and supervisory elements

Apart from the consultative procedures stated in art. 36 TEU and art 218 TFEU. It is interesting to see how, *de facto*, consultations of the Parliament with the EEAS and the HR were conducted, in terms of topics and frequency. It is noticeable that, in 2013, the HR, Ms Catherine Ashton, appeared before the European Parliament 16 times throughout the whole year. The appearances of Senior EEAS Representatives are much more numerous, with an average of six meetings per month (more than once a week) and a total of 75 in a year. In addition to this regular hearings and exchanges of views, it has to be considered also the commitment of the HR stated in the "Declaration by the High Representative on political accountability"¹⁸. An addendum to the final Council's decision in which the HR commits, for the sake of accountability, to involve the EP in the major process of the EEAS and CFSP.

2.3 Budgetary powers

As mentioned above, the European Parliament shares the power to decide on the entire annual budget of the EU with the Council of the European Union and it has the final say. Therefore, the EP must also approve the annual CFSP budget. The Parliament takes the decision after examination by its Committee on Budgetary Control (COBU) of the financial accounts and the report on its activities for the year in question. The EP can make

¹⁸ Council of the European Union, "*Adoption of a Council Decision establishing the organisation and functioning of the European External Action Service, Draft Declaration by the High Representative on political accountability*", Brussels, 20 July 2010.

Available at: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2012401%202010%20ADD%201>

recommendations on the execution of the budget. The procedure results in the granting, postponement or refusal of the discharge¹⁹ of the budget.

2.4 Functional revision

As part of the political decision that enabled the set-up of the EEAS, the High Representative was called to produce an "EEAS Review"²⁰ on the work of the EEAS and to present a report in the summer of 2013. The relevant section to consider is the one on "Inter-institutional Cooperation". This section encourages proactive and systematic consultation of the appropriate committees of the EP before decisions are taken in CFSP/CSDP .

2.5 Annual reporting

Every year, the Service and the High Representative present four different reports: (i) the annual activity report; (ii) the report on the EU's Common Foreign and Security Policy; (iii) report on Common Security and Defence Policy; (iv) the report on Human Rights.

2.6 The EP's influence on the functioning of the EEAS

The increasing influence of the EP on the EEAS' functioning can be also seen as a *Parliamentarisation* of EU's external affairs. That is to say a *democratization* of the processes and procedures governing the policy and decision making. In this perspective the democratic body of the EU is gaining influence on the diplomatic body²¹. The relevance of this process is also witnessed by the fact that after the 2013 Review, the EEAS established within its structure a special Unit on "Parliamentary Affairs" that could deal permanently with the relationship between the EEAS and the European Parliament²². It is interesting to investigate why and how this happened. On the one hand the Parliament used budgetary powers and other indirect forms of influence to shape the structure and the functioning of the EEAS, however, it was highlighted how the Council, formally holder of the hard power on CFSP, accepted most of the amendments proposed by the EP on the EEAS, even though it was not obliged to do it. At the same time, the Head of delegations, the EU Special

¹⁹EP and Council decisions about annual expenditure and revenue fall within the annual spending limits laid down in the EU's long-term financial plan, the Multiannual Financial Framework, negotiated every seven years.

²⁰ C. Ashton, *EEAS Review*, July 2013. Available at:

http://eeas.europa.eu/library/publications/2013/3/2013_eeas_review_en.pdf

²¹ E. Wisniewski, *The Influence of the European Parliament on the European External Action Service*, *European Foreign Affairs Review* 18, no.1 (2013): 81-102.

²² *The European External Action Service and the European Parliament* / Raube, K., *Hague Journal of Diplomacy*, 7(1), 2012, pp. 65-80

Representatives or the High Representative make an effort to appear before the relevant parliamentary committees and coordinate on EU's major decisions on foreign policy.

Therefore, at this stage, a hypothesis of a normative motivation can be proposed. This hypothesis gains relevance and robustness when considering the strong democratic profile of the Parliament. The EP, despite a lack of hard power, has been increasingly recognized as a fundamental policy actor by the other EU institutions, due to its direct democratic link with the EU citizens. Therefore, the Council, the HR and the EEAS accept its influence and foster collaboration with the EP on EU foreign affairs. With the influence of the Parliament, the EEAS gains in terms of democratic accountability and therefore in legitimacy towards the institutions of the EU, the Member States and the EU citizens. For a new-born institution the support of the democratic organ of the EU reveals to be fundamental to start its activities and strengthen its position in the EU context²³.

²³ K. Raube, *The European External Action Service and the European Parliament*, Hague Journal of Diplomacy, 7(1) (2012): 65-80.

Chapter 3.

The European External Action Service and the European Parliament: An increased relationship to enhance democratic accountability and legitimacy in the European Union's foreign policies

Building on the discussion started on the issue of democratic accountability and the relationship with the European Parliament, this chapter will investigate on the possible evolutions of this relationship. Democratic accountability is an aspect that seems to have been almost entirely overlooked in discussions on the evolving role of the European External Action Service (EEAS). In modern democratic societies, it is increasingly difficult to sustain the claim that foreign policy and diplomacy are incompatible with democratic decision-making and accountability. Furthermore, for the external service representing the EU as an entity aspiring to play the role of a mentor in state- and democracy-building processes globally, ensuring democratic accountability necessarily becomes a key concern.

3.1 Three scenarios of democratic accountability in the EEAS Scenario of EEAS

Three possible scenarios of evolution for the EEAS can be presented and discussed. The issue of accountability would be analysed transversally within the three hypothesis. The three hypotheses refer to possible evolution of the institutional framework of the EU: (i) as a delegated democracy; (ii) as a federal democracy (iii) as a cosmopolitan democracy.

Table 1: Three scenarios of democratic accountability in the EEAS Scenario of EEAS	<i>EEAS as a support agency of member state diplomacy</i>	<i>EEAS as a "federal foreign" service of the EU</i>	<i>EEAS as a cosmopolitan normative actor</i>
<i>Accountability forum</i>	Parliamentary assemblies of member states (foreign affairs committees); MS meeting in Council	European Parliament and its committees	Parliamentary assemblies and civic groups affected by EU foreign policies inside and outside the EU
<i>Mechanisms</i>	Information, questions, and sanctions by national parliaments, Foreign Affairs Council	Information, questions and sanctions by EP	Information, questions and (normative) sanctions by multiple global constituencies
<i>Contestation</i>	Horizontal by MS governments and parliaments	Vertical by MS governments and parliaments	External by multiple constituencies affected by EU action

3.2 Moving forward: towards an integrated model of democratic accountability for the EEAS

Based on the second scenario, in this model the EEAS will act as federal foreign service. The primary accountability forum would be the European Parliament and its Committees dealing with external affairs portfolios. The EP would have the right to be consulted *ex ante* and *ex post* on actions decided by the Foreign Affairs Council and implemented by the EEAS. The implementation process and the implementing actors (HR, senior EEAS staff and Head of Delegations) could be questioned by the EP to verify the appropriateness and effectiveness of their actions. Administrative accountability would be ensured by EU's audit bodies and the budgetary powers would always be in the hands of the European Parliament. Legal accountability of the EEAS would be before the European Court of Justice.

This would already be a positive achievement, given the low level of public scrutiny on CFSP. However, it may not be enough to guarantee internal and external legitimacy to the EU-model. Therefore, a feature of the first scenario has to be introduced: the participation of national parliamentary assembly. Including in the policy and decision-making processes, national parliamentary assemblies of MS, would avoid vertical contestation. The MS and their democratic organs would be part of the processes in the making of CFSP and consequently, the EEAS would be also accountable before them. A second feature from the third scenario, has also to be added. To overcome the limits of state-based foreign services, the involvement of stakeholders from civil society would have also to be guaranteed. Mary Martin (2009) argues that the EEAS, should not replicate traditional models of organizing diplomacy and should instead "change its orientation away from primarily elite contacts in favour of developing multilevel channels of communication which allow ordinary citizens access to the EU and the values it represents" (Martin 2009). This would entail openness to a broad spectre of CSOs, which would be regularly involved in the policy and decision-making on foreign policy. In the context of the EEAS as federal foreign service, mechanisms for the involvement of CSOs should be included. This involvement could be through formal and informal channels of consultation. The European Economic and Social Committee and the Committee of Regions could be involved more in the area of CFSP. In a similar way, representatives of employers and employees (ETUC) could be included in the debate. Hearings in front of relevant parliamentary committees, debates, possibility to present motions and documents to the EP, could be some of the different ways in which institutions representing the citizens directly (or groups of citizens) and CSOs could be involved to

contribute to the increase the democratic accountability of the EEAS. The use of the Internet and the development of forms of eDiplomacy (Diplomacy 2.0) could also be fundamental to allow the EEAS to move forward in its process of institution building.

This integrated model takes into account the weaknesses of each of the three presented above. It builds on their strengths and focuses on possible evolutions in the EU legal framework regarding the accountability of the EEAS.

3.3 Key findings on EEAS' democratic accountability

There are a number of ways in which the participation of democratic accountability could be enhanced. Some of them entail a structural modification of the Treaties and therefore a process that would require a new ratification from all the Member States²⁴. Furthermore, these options entail an increase in terms of procedures in the already complex decision making process of the European Union. The trade off and the balance between a baroque institutional architecture of the EU and democratic accountability tend too much on the first feature, being likely to cause a slowdown in the EU decision making process.

In this regard, it is important to list two proposals that, even with these negative consequences in terms of institutional architecture would have a strong impact on democratic accountability of the EEAS, of the CFSP and more generally of the EU:

- i) Creation of a second chamber of the European Parliament, composed by representative of national parliaments, as a sort of federal Senate able to decide together with the Parliament;
- ii) Enhance the role of the Committee of the Regions and of the Economic and Social Committee by involving it in consultation and decision processes.

A different category of proposals are the proposals, which do not require reforms or revisions of the Treaties to be implemented:

- iii) Enhancing the "early warning procedure" and extending it to the area of CFSP;

²⁴ Ratification of Treaties is problematic both in terms of time and outcomes. First, ratification processes may take long time, 1-2 years, depending on the procedure at national level. Second, outcomes are uncertain. Some Member States' constitutions require a referendum to approve international agreements (Ireland).

- iv) Creation of a continuous and enhanced relationships between the EP Foreign Affairs Committee and the national Foreign Affairs Committees, based on exchange of documents, information and views;
- v) Creation of a consultation process on CFSP involving the EP or the EEAS and national relevant committees;
- vi) Providing access to documents and information, as well as on expenditures of the EEAS to national Members of the Parliament.

It is evident how the proposals that would require a modification of the Treaties, would most likely encounter vetoes from the MS. Yet, the involvement of national representatives from parliaments would be a key feature for creating a more accountable Service and to fill the gap of democratic deficit leading some authors to speak about *Brusselized* decision-making.

What is more achievable are certainly the measures that do not entail a revision of the Treaties: enhancing the "early warning procedure" and extending it to the area of CFSP; establishing enhanced relationships between the EP Foreign Affairs Committee and the national Foreign Affairs Committees, based on exchange of documents, information and views; creating a consultation process on CFSP involving the EP or the EEAS and national relevant committees; Providing access to documents and information, as well as on expenditures of the EEAS, to national Members of the Parliament. Another possibility for the EEAS is to follow the European Parliament's recommendations on nominating a permanent deputy to represent the HR, when he/she consider it appropriate, in parliamentary settings (plenary/committees) , increasing the number of hearings of EEAS' senior staff, reduce the formalities for MEPs and Parliamentary Committees' access EEAS documents.

This evolution would be essential for the EEAS to play the role of promoter of the EU values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human right. The outcomes of such a review will also have major impacts on the legitimacy of the Service and more generally of the EU. What is evident is that, in this process of reform, the EP, as the democratic institution of the EU, would play the main role. From, through and by an enhanced relationship with the European Parliament, the newly established EEAS will shape its future.

4. Conclusion

The European External Action Service is a relatively new-born institution within the EU legal framework. The processes of set-up and the relationship with the other EU institutions are a dynamic work in-progress. Institutional interaction and Member States' policies are going to shape the future identity of the EU external dimension.

The process of establishment of the EEAS involved a plurality of actors and institutions. Within them, the European Parliament played a major role in shaping the final "Council Decision Establishing the Organization and the Functioning of the European External Action Service" of the 20th of July 2010. Content analysis of inter-institutional documents suggests recognition of the Parliament as an important actor by the other institutions, especially the High Representative and the Council. They allowed the EP to influence the HR's Draft Proposal for the Council Decision further than the Lisbon Treaty intended. An overwhelming amount of changes could be traced back to the influence of the Parliament, suggesting compromise rather than consultation. The areas where the EP was able to influence the most were: (i) Staff recruitment; (ii) EEAS' budget; (iii) Access to documents, archives and data protection; (iv) EEAS Senior Staff's hearings and EEAS reporting to Parliamentary Committees. These amendments strengthened the future role of the Parliament concerning the EEAS and indicated that the current position of the Parliament in the EU is more important than intended formally by the Treaties.

While certainly the use of the "hard" budgetary power helped the Parliament to generate real influence on the establishment of the EEAS, the Council could have rejected the MEPs' demands in its final decision²⁵. Institutional change within the EU might not only be based on cost-benefit calculation and therefore the analysis should not overlook a normative motivation. The EP is increasingly recognized as an important policy actor by the other EU institutions despite a lack of power, since parliamentary influence is accepted²⁶. This has translated into powers of the Parliament further than the Treaties intended, which is opposite to common expectations on theories based on cost-benefit calculation²⁷. With the influence of the Parliament, the set-up of the EEAS has gained more democratic legitimacy and this was

²⁵ E. Wisniewski (2013), *supra*.

²⁶ E. Wisniewski (2013), *supra*.

²⁷ E. Wisniewski (2013), *supra*.

understood by the EU intergovernmental institutions, which decided to involve the EP in the process of establishment of the EEAS.

The functioning of the EEAS is formally ruled by intergovernmental processes. The High Representative coordinates and leads the operations of the EEAS. He/she is accountable directly to the Council and therefore to the representatives and the governments of the Member States. The decision-making process is mainly intergovernmental in the area of CFSP. Almost all decisions regarding EU's external action require unanimity (a few cases qualified majority vote) within the Council. According to the Treaties, the EP has a limited role and is excluded from having decision making powers in most areas of CFSP.

Nevertheless, there are a number of ways in which the EP influences the functioning of the European External Action Services. In different areas the Parliament has both direct soft power or indirect hard powers. These areas are related to: (i) Legislative elements (e.g. consent procedure on international agreements); (ii) Consultative and supervisory powers; (iii) Budgetary powers; (iv) Participation to the processes of functional revision and regular EEAS' reporting to Parliamentary Committees; (v) Influence on the appointment of the High Representative, of the Heads of EU Delegations and EU Special Representatives.

Through the use of indirect hard powers as the budgetary power and the consent procedure for international agreements that involve "important budgetary implications", the Parliament is able to influence the decisions of the Council and of the HR. In a similar way, an extensive use of its soft powers (reports and exchanges of views with EEAS' Senior Staff and Head of Delegations, plenary debates with the HR, accessing to documents and commenting EEAS' reports) the Parliament built progressively its role as a participatory actor in the functioning of the European External Action Service. Once again, its influence goes beyond the formal intention of the Lisbon Treaty. The relevance of the Parliament in this process is also witnessed by the fact that after the 2013 Review, the EEAS established within its structure a special Unit on "Parliamentary Affairs" that could deal permanently with the relationship between the EEAS and the European Parliament. Finally, the HR, the Heads of Delegations and the EUSR make an effort to appear the more and more before the EP and the relevant Parliamentary Committees. In 2013, the HR, Ms Catherine Ashton, appeared before the European Parliament 16 times, whereas Senior EEAS Representatives a total of 75 times.

Democratic accountability of the EEAS activities is an aspect that was almost entirely overlooked in the establishment and functioning of the EEAS. After four years of activities, the EEAS has overcome the transitional phase of establishment in which democratic accountability could have been left aside. It is already increasingly difficult to sustain the claim that foreign policy and diplomacy are incompatible with democratic decision-making and accountability. Furthermore, in the EU context, the EEAS represents the external effort of an entity (the EU) aspiring to play the role of a mentor in state- and democracy-building processes in various countries and listing democratic accountability as one of its most fundamental principles. Therefore a substantial change in the structure of the EEAS and in its relationship with the other EU institutions is needed.

There are three possible directions in which the EEAS could evolve: (i) as a support agency of member state diplomacy; (ii) as a "federal foreign" service of the EU; (iii) as a cosmopolitan normative actor. An integrated model for the EEAS' evolution drawing from the positive parts of these options is needed for the EEAS to: (i) Liaise with national parliaments, governments and MS' diplomacy; (ii) Be strengthened and gain competences similar to the ones of "federal foreign services"; (iii) Avoid replicating practices and procedures of the national foreign services and therefore, replicating their limits as well.

There are a number of reforms that would lead the evolution of the EEAS in this direction. Some of them entail a modification of the Treaties others would require decisions in the context of ordinary/special legislative procedure. The former proposed are: (i) Creation of a second chamber of the European Parliament, composed by representative of national parliaments, as a sort of federal Senate able to decide together with the Parliament; (ii) Enhance the role of the Committee of the Regions and of the Economic and Social Committee by involving them in consultation and decision processes on CFSP. The latter are: (i) Enhancing the "early warning procedure" and extending it to the area of CFSP; (ii) Creation of a continuous and enhanced relationships between the EP Foreign Affairs Committee and the national Foreign Affairs Committees, based on exchange of documents, information and views; (iii) Creation of a consultation process on CFSP involving the EP or the EEAS and national relevant committees; (iv) Providing access to documents and information, as well as on expenditures of the EEAS to national Members of the Parliament.

In any case, the evolution of the European External Action Service would be closely linked to its relationship with the European Parliament. The EP can definitely be a strong ally for the EEAS in the path for a transformation of the EEAS towards a federal foreign service and for the effort of transferring competences from the Member States to the European Union in the Common Foreign and Security Policy area. Most likely, the EEAS and the HR will cultivate their relationship with the Parliament as opposed to the intergovernmental institution to which the EEAS is currently accountable, the Council.

This evolution would be essential for the EEAS to play the role of promoter of the EU values of respect for dignity, freedom, democracy, equality, rule of law and defence of human rights. The outcomes of such a review will also have major impacts on the legitimacy of the Service and more generally of the European Union. From, through and by an enhanced relationship with the European Parliament, the newly established European External Action Service will shape its future.

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