

NEIGHBOURHOOD policy paper



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THE EEAS AND THE EUROPEAN NEIGHBOURHOOD POLICY: A CHANGE IN RHETORIC OR REALITY?

On the day (8 July 2010) that the European Parliament voted to approve the creation of the European External Action Service (EEAS), the High Representative of the Union for Foreign Affairs and Security Policy delivered her 'Europe and the world' speech in the Athens Concert Hall presenting the European Neighbourhood Policy (ENP) as one of three priorities of the European Union's (EU) external action. Approximately two and the half year after the famous speech, this article aims to examine the newly established EEAS' collaboration with the member states and other EU institutions for the purpose of advancing the EU's interest in the Eastern and Southern neighborhoods. The paper argues that the EEAS needs sufficient resources to bring added value to the neighborhood policy. The Service's effort to reconceptualize the ENP as a tool through which the EU assists partner governments to conduct reforms could progress if the EEAS overcomes the double standards in dealing with the neighbors. Ultimately, gaining the trust of the member states, working closely with the Commission Directorates General and maintaining the support of the European Parliament are preconditions for the new-born EEAS to advance a qualitatively renewed ENP.

Key words: European Neighbourhood Policy (ENP), European External Action Service (EEAS), High Representative of the Union for Foreign Affairs and Security Policy (HR/VP), European Union (EU), conditionality.

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From the old to the new system

The establishment of the European External Action Service (EEAS) that aims to enhance the European Union's (EU) foreign policy institutional architecture has, among other things, implications for the European Neighbourhood Policy (ENP). Prior to the Service's creation, a Deputy Director General of the Commission's Directorate General (DG) Relex (external relations) hosted three Directorates dealing with the neighborhoods: 1) Directorate E was responsible for Eastern Europe, the Southern Caucasus and Central Asia which included the

eastern dimension of the ENP; 2) Directorate F consisted of the units dealing with the Middle East and the Southern Mediterranean, which encompassed the Southern Neighborhood; and 3) Directorate D included two ENP units working on the horizontal issues (process and sectoral aspects) covering both neighborhoods.

In the post-Lisbon Treaty institutional structure, the Commission's DG Relex including the Directorates dealing with the neighborhood became part of the newly established EEAS. The organization of the EEAS is based on the so-called Managing Directors

(MD), which are equivalent to the Deputy Director Generals in the Commission system. The EEAS currently has two Managing Directors dealing with the neighborhoods – 1) the Europe and Central Asia MD (III) that also focuses the Eastern Neighborhood, and 2) the North Africa, Middle East, Arabian Peninsula, Iran and Iraq MD (IV) that deals, *inter alia*, with the Southern Neighborhood.

In the first year and a half of the EEAS' existence, the horizontal units that formed the ENP Directorate within the Commission's DG Relex were attached to the EEAS' Managing Directorates working on both the Eastern and Southern Neighborhoods. For administrative reasons, the ENP unit dealing with the philosophy of the neighborhood policy and the money backing up the policy was attached to the MD IV. The ENP unit that dealt with regulatory affairs was attached to the MD III.

Since its establishment, the EEAS has faced budgetary constraints and the pressure to rationalize, *inter alia*, resulted in a merger of two ENP units. As the units complemented each other, the rationalization made sense. However, the merger was also accompanied with cuts in personnel. Currently, the ENP unit has eighteen staff members, seven persons less than its predecessors. Moreover, the Director's post was scrubbed and the current head of the ENP unit has to 'serve two masters', *viz.* the Managing Director III and the Managing Director IV. An important layer to report to is therefore missing and the unit has to maneuver between two Managing Directors with often diverging interests and opposing preferences, whereas in the 'older system' the ENP units had to deal with one Director.

The policy to slim down the personnel working on the ENP contradicts the priorities outlined in the Athens Speech of the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) and any further cuts could severely undermine the work in the area of the neighborhood policy. (Ashton, 2010) Moreover, prioritizing the ENP was reinforced by the joint Communication of the HR/VP and the Commission of March 2011 with the paradigm shift towards the Southern Mediterranean. (European Commission and High Representative of the European Union for Foreign Affairs and Security Policy, 2011)

If the HR/VP is serious about the ENP being a priority of the EU's external action, then the resources within the EEAS working on this policy area should be kept at a sufficient level.

The EEAS' only unit dealing with both neighborhoods, and thus guarding the unity of the ENP, focuses on three horizontal issues: the philosophy of the neighborhood policy; the regulatory affairs; and the money for backing the policy. On the ENP philosophy, the EEAS works with the Commission taking into consideration the preferences of the member states. On the regulatory issues, the EEAS cooperates closely with the Commission. In matters pertaining to the European Neighbourhood and Partnership Instrument (ENPI) which supports the ENP, the EEAS works with the member states, the European Parliament and the Commission.

The concrete output in the ENP philosophy is the so-called annual package that includes the ENP Communication, two regional reports and eleven country reports. Drafting the reports starts with input from the EU Delegations, which is compared with the assessment conducted in the headquarters of the EEAS. The EEAS' ENP unit drafts these together with the geographical units. At the next stage, the EEAS seeks the input of the Commission Directorates General since the reports cover all the areas where the Commission has expertise. This is followed by the contributions, *inter alia*, from the Council of Europe, international financial institutions and civil society. The EEAS does not discuss or debate the content of the reports with the member states during the drafting process.

The regulatory issues are conducted in cooperation with the Commission Directorates General on the themes covering, among other things, transport, energy, environment, trade, and public health. For example, if the EEAS plans to work on transport within the neighborhood sphere, it needs to cooperate with the Directorate General for Mobility and Transport (DG MOVE). Likewise, the EEAS collaborates with the Directorate General for Energy taking into consideration both 'pure' energy issues and their implications for foreign policy. The EEAS also has to work with the Internal Market and Services Directorate General (DG MARKT), since some of the neighborhood countries are candidates to join the EU's internal market.

The EEAS plays a central role in managing the ENPI funds channeled to the Eastern and Southern neighbors. The distribution of the ENPI funds between the two neighborhoods has followed a logical path. When the EU put forward the Eastern Partnership, the Eastern neighbors proportionally received more funding than the Southern partners. Following the Arab Spring, however, more funds have been allocated to the Southern neighbors. The European Neighbourhood Instrument (ENI) is set to replace the ENPI in the upcoming multiannual financial framework. Besides the change in the name, there is also a modification among the beneficiaries. As opposed to the ENPI, the ENI will not cover Russia.

The money that is allocated to the neighborhood is only a small portion of the multiannual financial framework which is the basis of the EU's forthcoming seven-year spending cycle (2014-2020). The EEAS has asked for eighteen billion euro for the ENI. The requested sum is the opening bid, which means that at the end of the negotiating process the funds allocated will be less. The result is however expected to be more than what was earmarked for the ENP in the current multiannual financial framework. Even with this possible slight increase, the EEAS will not manage to change the ENP drastically.

Shifting the center of gravity

The creation of the EEAS and the recent developments in the EU's neighborhoods brought a substantive change in the implementation of the ENP. Although the neighborhood policy was always supposed to be conditional, the conditionality was not implemented consistently. In its short existence, the EEAS made an effort to translate the conditionality from rhetoric to reality and communicate it more clearly to the partner states. The governments of the neighborhood countries are currently often reminded about the commitments that they made to their own citizens such as reforming the judiciary, fighting corruption, creating jobs and renewing their society at large.

The new approach adopted by the EEAS is based on merit. However, the ENP will only be credible when the double standards in assessing the progress of the neighborhood countries' reforms (that threaten the ENP's integrity) are eliminated. Otherwise the credibility of the ENP will be undermined.

The EEAS and the member states

Although the EEAS initiates ideas and links up different strands of external policies, the member states hold the real decision-making powers. The latter however avoid voting on any issue at any level and prefer working through consensus building. Although theoretically even one member state can block the process, the veto power is rarely used. After all, in the Council structures, the member states meet regularly and the work is done in concert. Given the fact that institutional memory in the EU is very strong, member states try to avoid blocking the decision making process.

In the area of the ENP, the working relations between the member states and the EEAS are functioning well. The EEAS understands when the issue at hand falls within its own discretion. In cases, when the problem exceeds the boundaries of the EEAS' discretionary power, the Service goes back to the member states. The primary fora for the interactions between the EEAS and the member states are the Council's Eastern Europe and Central Asia (COEST) and Mashreq/Maghreb (MaMa) working groups. One level up, the EEAS deals with the representatives of the member states in the Political and Security Committee (PSC). The member states conduct horizontal checks in the Comité des représentants permanents (COREPER) and their foreign ministers take the decisions in the Foreign Affairs Council (FAC).¹

For the EEAS, three elements determine the choice of the fora of the member states to address a given question: the magnitude of the issue; the divergence/convergence of the positions of the member states on the item at hand; and strategic considerations. The general preference is to secure an agreement at a lower level when possible. If reaching an agreement is not feasible, then the EEAS moves the issues to the next higher level. The more sensitive or politicized the question is, it is likely to reach a higher level/structure for debate and resolution. However, the EEAS might deviate from the aforementioned 'orthodox' approach of decision making for strategic purposes. In specific cases related to important foreign policy issues, even if securing an agreement at the lower levels is possible, the EEAS might opt for a higher level in order to send an important signal to the neighborhood country concerned. If the question is discussed in the FAC and there

is a statement on behalf of the ministers, then it indicates that the issue is of greater importance to the EU. The EU's reaction to the October 2012 Ukrainian parliamentary elections is illustrative of the mechanism. The discussions on what should be the EU's response in the immediate aftermath of the elections were first discussed at the level of COEST, then moved to the PSC and eventually ended up in the FAC of 10 December 2012 which issued a stern warning to Ukraine.

Although the post-Lisbon period brought about a number of modifications in the EU's external action institutions, it did not eliminate the divergences between the foreign policy interests and preferences of the member states. Among the member states, the patrons of the Eastern dimension of the neighborhood policy are, among others, Poland, Lithuania and Sweden. Regarding the Southern neighbors, the most active states are France, Spain and Italy. The rest of the member states, including those that have no interest in either neighborhoods, cluster around those two groupings.

Operating within the context of the diverging preferences of the member states, the EEAS' role is to find a balance and facilitate an understanding that there is one policy and one neighborhood. For the EU's interests to be served, the EEAS needs to ensure that all the partner countries are granted equal chances to come closer to the EU rather than focusing on the 'important' neighbors favored by this or that member state.

The diverging preferences of the member states cause conflicting philosophies concerning the aim of the EU's neighborhood policy. On the one hand, some member states express loudly that the ENP is useless unless it delivers a membership perspective to those neighbors that meet the criteria mentioned in Art. 49 of the Treaty on European Union (TEU). On the other hand, many member states view the ENP as a way of keeping the EU's doors shut. Between these opposing views, there are member states that consider the neighborhood policy as a means for providing the tools to the governments of the partner states to reform. Also some member states simply do not take the neighborhood policy seriously.

The EEAS navigates between a diversity of views and, for the purpose of feasibility, focuses on the

center. Operationally, the Service builds coalitions around the member states and then in conjunction with them pushes the agenda forward. Once there is a critical mass of member states that supports a particular policy item, the EEAS puts it up for debate and discussion until a consensus is reached.

The EEAS strategy will work better if the Service gains the trust of the member states and aims to find a compromise in the middle, leaning towards the side of the member states that want to do more.

The cases in point are the EEAS leadership in the EU's beefed up response to the Arab Spring and the initialing of the Association Agreement with Ukraine. Although there was a large consensus among the member states that the EU needs to do something as a reaction to the revolutions unfolding in the Arab world, the member states did not have a clear understanding what that something should be. The EEAS also managed to play a leading role in initialing the Association Agreement including the Deep and Comprehensive Free Trade Area (DCFTA) with Ukraine in a context of uncertainty and divisions among the member states.

The EEAS and the Commission

Although highly complex, the EEAS' collaboration with the Commission in the area of the neighborhood policy largely functions well. As opposed to the other major policy areas that have specialized Directorates General in the Commission, there is no DG dealing exclusively with the neighborhood even though there is a Commissioner responsible for Enlargement and Neighbourhood Policy, currently headed by Stefan Füle. The rest of the 'ENP' staff at the former Directorate General in charge of external relations (DG Relex) was moved on 1 January 2011 to the EEAS. Instead, the Council decision establishing the EEAS instructs the Service to assist, *inter alia*, the Commissioner responsible for Enlargement and Neighbourhood Policy. The letter of the Council decision has been successfully implemented. The EEAS' units dealing with the ENP became the *de facto* service of Commissioner Füle. Following the same logic, Füle in his role as neighborhood Commissioner works for the EEAS within the confines of the Commission. The HR/VP deals with the neighborhood issues mostly when a major crisis erupts in one or more of the ENP countries.

On the neighborhood issues, the EEAS is in constant contact with the Commission DGs including the DG for Energy, DG Home Affairs, DG Trade, and DG Development and Cooperation - EuropeAid (DEVCO). In cases when the EEAS' and a particular Commission Directorate General's preferences diverge in a specific sector, it makes it harder for the EEAS to secure the consent of the member states to act. For example, the EEAS might make its case in either the COEST or the MaMa working groups but it might be blocked by the member states in another forum where the Commission has successfully lobbied its case.

Another complex area of cooperation is the mobility sector where the EEAS has to work with the Commission's DG Home Affairs. The difficulty in relations arises from the fact that DG Home Affairs is much more in tune with the representatives of the interior ministries of the member states than with the EEAS. In the area of mobility, the EEAS seeks to do more than the Commission's DG Home Affairs. The representatives of the member states in the MaMa working group, in particular, are also very much influenced by their national interior ministries and thus supportive of DG Home Affairs.

The Commission's DG DEVCO collaborates with the EEAS on a daily basis facilitating yet another link between the Service and the Commission in the area of the ENP. The EEAS' relations with DG DEVCO have been improving after initial problems. In the post-Lisbon system, the EEAS takes the lead on programming the country allocations in the multiannual financial framework, country and regional strategic papers as well as national and regional indicative programs. DG DEVCO leads the programming of the annual actions and their implementation. The EEAS and DG DEVCO coordinate the ENPI funds together (the EEAS does the programming and DG DEVCO is responsible for the implementation). The debates are primarily about how much money has to be allocated to which region or country. Therefore, the EEAS and the Commission's DG DEVCO check and balance each other with neither side being able to overrule the other.

Conversely, when the EEAS and the Commission converge on an issue, the EEAS' argument is perceived by the member states as being strong. For instance, the EEAS is a natural ally of the

Commission's DG Trade since both seek to open up the EU's markets. In contrast, many member states are protectionist in their trade policies. The case of opening up the DCFTA negotiations with the smaller eastern neighbors is illustrative. Initially, DG Trade perceived the Eastern partners as unprepared to reform as well as non-significant for the EU's trade as such and resisted starting negotiations with them. The EEAS however swayed DG Trade to agree on opening the negotiations since as opposed to the DCFTA's insignificance for the EU's trade purposes, the process was viewed as important for its foreign policy. After a number of consultations between the EEAS and DG Trade, the latter presented an early draft text for the start of negotiations, which could not have been acceptable for the partner countries. Once the EEAS and DG Trade came to an agreement, DG Trade received the mandate from the member states to open the negotiations as it did with Georgia and Moldova in December 2011.

More problems ahead?

Currently more than one third of the EEAS' staff originates from the Commission ensuring smooth working relations between the Service and the Commission. This is set to change over the long-term. Many national diplomats that are already transferred to the EEAS and whose number is expected to reach 1/3rd of the EEAS' total staff often need to improve their knowledge of how to work with the Commission. The EEAS is likely to become more independent from other EU institutions over time and the gap between the EEAS and the Commission is expected to widen.

In order ensure the sustainability of the relations between the EEAS and the Commission, the staff rotation across the institutions has to be made much easier. *The EU's leadership should stimulate a change of environment in a way that moving from the Commission to the EEAS or vice versa is not viewed negatively.* Moreover, before joining the EEAS, the representatives of the member states, especially those who are planning to work on the neighborhood issues, should be encouraged to get acquainted with the workings of the Commission.

The EEAS and the European Parliament

The European Parliament is a natural ally of the EEAS in the area of the ENP. Philosophically, the Parliament belongs to the group of EU actors that

push the Union to do more in the neighborhoods. This approach is certainly beneficial to the EEAS. Many members of the European Parliament call for the ENP to cover much more than what the policy currently encompasses, including offering a membership perspective to the Eastern partners. Presently, the Parliament does not have the competence to offer a membership perspective to any neighborhood country. However, within the EU institutions, the Parliament is unsurpassable in its ability to hold public debates and thus build a consensus around an issue.

Although the European Parliament has tried to push the EEAS and/or the Commission to do more in the area of regulatory approximation, its involvement in the technical aspects of the day to day implementation of the regulatory affairs has remained rather limited. For example, while some members of the European Parliament argued in favor of an open air agreement with the Southern partners with the concurrence of both the EEAS and the Commission's DG MOVE, this trilateral coalition failed in the face of strong opposition by some member states.

The European Parliament also supported the EEAS in the area of funding for the ENP. The Parliament is a co-decider on the external action expenditure including on the budget allocated to the neighborhood policy. The majority of the members of the European Parliament have shown consistency in advocating for more funds for the neighborhood. When the Parliament prepares its draft ENP expenditure, which surpasses what the EEAS requested, it naturally supports the latter's cause.

Conclusion

In order to advance the EU's interests in the neighborhoods, the EEAS has to work with other EU actors. The Service operates in an environment of diverging interests between the member states and therefore has a careful balancing act to perform. The EEAS' major challenge in this area is to counter some tendencies by the member states to sponsor particular neighboring countries for their national strategic prerogatives. In this context, together with the Commission and the European Parliament, the EEAS has to communicate clearly that the ENP aims to provide equal opportunities for all partner countries.

The absence of a Commission Directorate General for Neighbourhood Policy and the existence of a large number of EEAS staff originating from the Commission facilitate stable working relations between the EEAS and the Commission in the area of neighborhood policy. The tensions with some of the Commissions DGs on specific sectoral issues however remain a challenge for the EEAS, partly because of the lack of capabilities in the EEAS on these issues. In a long-term perspective, with the induction of a greater number of diplomats from the member states in the EEAS, the Service is likely to become more independent from the other institutions, thereby leading to heightened tensions between it and some of the Commission DGs.

The European Parliament has limited formal competences in the areas of the ENP. However, the pressure that the members of the Parliament as the representatives of the Union's citizens put on the member states through highlighting the issues in public debates and utilizing the Parliament's competence in the external action expenditure helps the work of the EEAS.

In sum, the EU institutions and the member states have spent seven years trying to identify what the Union is capable of offering to the partner countries, which although short of a membership perspective, often projected unrealistic expectations from the neighborhood policy. The EEAS has left its mark on the ENP by communicating more clearly what the EU can offer and what the deliverables of the partner countries are at this point in time. Ultimately, the EEAS' service to the EU's interests, although limited by the preferences of the member states and their decision-making rights as well as the Commission's competences, should be influencing the countries of both neighborhoods to do their homework and implement real reforms at last.

Endnotes

- 1 With the exception of the COREPER, the EEAS' representatives chair and set the agenda at all aforementioned mentioned levels.

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The *Neighbourhood Policy Paper* series is meant to provide the policy, research and professional communities with expert input on many of the important issues and challenges facing, in particular, the Eastern neighborhood of the European Union today as they are written by relevant experts. The analysis provided along with the relevant policy recommendations strives to be independent and not representative of any one particular perspective or policy. Most of these papers are also translated into Russian so that they are accessible to the Russian speaking world in an attempt to enlarge the scope of the dialogue and input on neighborhood-related issues. The key priority is to maintain the focus of the policy debate on the Black Sea Region and the wider region including its interaction with the Mediterranean South.

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