

# Conflict and Continuity in European Diplomatic Cultures: Accountability, Scrutiny and Control in EU External Affairs\*

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Under the Lisbon Treaty, the EU High Representative for Foreign Affairs (HRVP) has obtained far-reaching powers to formulate, coordinate and implement EU external policies, traditionally a prerogative of the state. In the exercise of this delegated powers, the HRVP is assisted by a dedicated administrative body, the European External Action Service (EEAS). Formal decision-making over the EU's common foreign and security policy lies with the Council, while the European Neighborhood and Trade policies, as well as international cooperation remain competences of the EU-Commission. Concomitantly, the EEAS is situated within several, partly overlapping and conflicting accountability relationships. The ensuing question is: To what extent, how and by whom can the HRVP and the EEAS be held politically to account? With data from official documents, 50 semi-structured interviews and a survey among 184 EU foreign policy-makers, the article maps and assesses of the multi-level actor/forum relationships of the EU's foreign policy machinery.

*Keywords:* multi-level accountability, EU foreign policy, popular control, checks and balances, legitimacy, European external action service

## Introduction

Five years after entry into force of the Lisbon Treaty, the effects of the changes to the organization of EU foreign policy are becoming manifest. The member state holding the rotating Council Presidency no longer takes the lead on external relations. The Foreign Affairs Council is chaired by the “HR/VP”, the newly established position of a High Representative for Foreign Affairs and Security Policy, which is now combined with the role of the Vice President of the Commission, replacing the External Relations Commissioner (a position since autumn 2014 held by Ms. Federica Mogherini), and the Council working groups on foreign relations are presided by officials from the European External Action Service (EEAS). According to the Articles 18 and 27 of the TFEU, the HRVP “conducts the Union’s common foreign and security policy”; “contributes by her proposals to the development of that policy, which she carries out as mandated by the Council, and ensures implementation of the decisions adopted”; “presides over the Foreign Affairs Council of Ministers”; “is one of the Vice-Presidents of the Commission and thus ensures the consistency of the Union’s external

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action”; “represents the Union for matters relating to the common foreign and security policy, conducts political dialogue with third parties on the Union’s behalf and expresses the Union’s position in international fora”, and “exercises authority over the European External Action Service and over EU delegations in third countries and at international organisations”.<sup>1</sup> Given this concentration of functions and tasks, and the potentially far-reaching competences with regard to formulation and implementation of the Unions foreign and security policy, it is argued that there is an inherent requirement for democratic accountability and legitimacy of the EU’s administration of “core-state powers” (Genschel & Jachtenfuchs, 2014), traditionally linked to national interest, security concerns and secrecy (Sjursen, 2015). The importance of formal and informal accountability relations for the legitimacy and democratic control of government has also been underpinned by empirical studies on the systems of checks and balances of the EU’s and its MS’ as well as third states’ institutions (Demmke et al., 2008; Persson et al., 2013).

In the wake of this institutional rearrangement, by Council Decision (427/2010) the EU created a dedicated administrative apparatus, the European External Action Service (EEAS) in order to assist the HRVP in achieving “[...] consistency and coordination of the Union’s external action as well as by preparing policy proposals and implementing them after their approval by the Council”. The EEAS is a “functionally autonomous body” placed “under the authority of the HR/VP”, and the latter is, next to her political function also the bureau head of the former, and consequently has to assume political responsibility for this bureaucracy.<sup>2</sup> Because of the manifold and partly overlapping inter-institutional links, coupling together different policy sectors and administrative levels, accountability is not neatly contained within the EEAS, and therefore also the organizational accountability relations matter.

The EEAS, as the supporting bureaucracy of the HRVP, is an organizational hybrid with inbuilt ambiguities stemming from the inherited pillar structure and divided competence areas between community institutions, intergovernmental structures and the member states. In the Council (FAC), the HRVP is regarded as one of their own by the foreign ministers of the member states. However, in line with the “Declaration by the High Representative on Political Accountability” (annexed to Council Decision 427/2010, establishing the EEAS) and unlike the situation prior to the establishment of the EEAS, the HRVP is now formally obliged to answer to the European Parliament (EP) and to justify her policy choices to a directly elected body. As can be seen from Figure 1 mapping the institutional embeddedness of the EEAS, multiple oversight relations can be discerned as an expression of simultaneous ownership claims and as an organizing principle inbuilt into the service in order to secure and manage political and ideational influence and control from both the intergovernmental and the community spheres, involving notably the Council, the Commission, and the EP in a struggle over power and institutional turf (Blom & Vanhoonacker, 2016). This article sets out to disentangle these multiple and overlapping accountability relations, and overall the question is to what extent have the institutional innovations that both the HR and the EEAS represent made EU external action more (or less) accountable?

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<sup>1</sup> Text from the EEAS website. Retrieved from [http://www.eeas.europa.eu/what\\_we\\_do/index\\_en.htm](http://www.eeas.europa.eu/what_we_do/index_en.htm)

<sup>2</sup> Retrieved from [http://www.eeas.europa.eu/what\\_we\\_do/index\\_en.htm](http://www.eeas.europa.eu/what_we_do/index_en.htm). However, the EEAS is also obliged to assist “...the President of the European Council and the President as well as the Members of the Commission in their respective functions in the area of external relations and ensures close cooperation with the Member States. The network of EU delegations around the world is part of the EEAS structure” (ibid.).

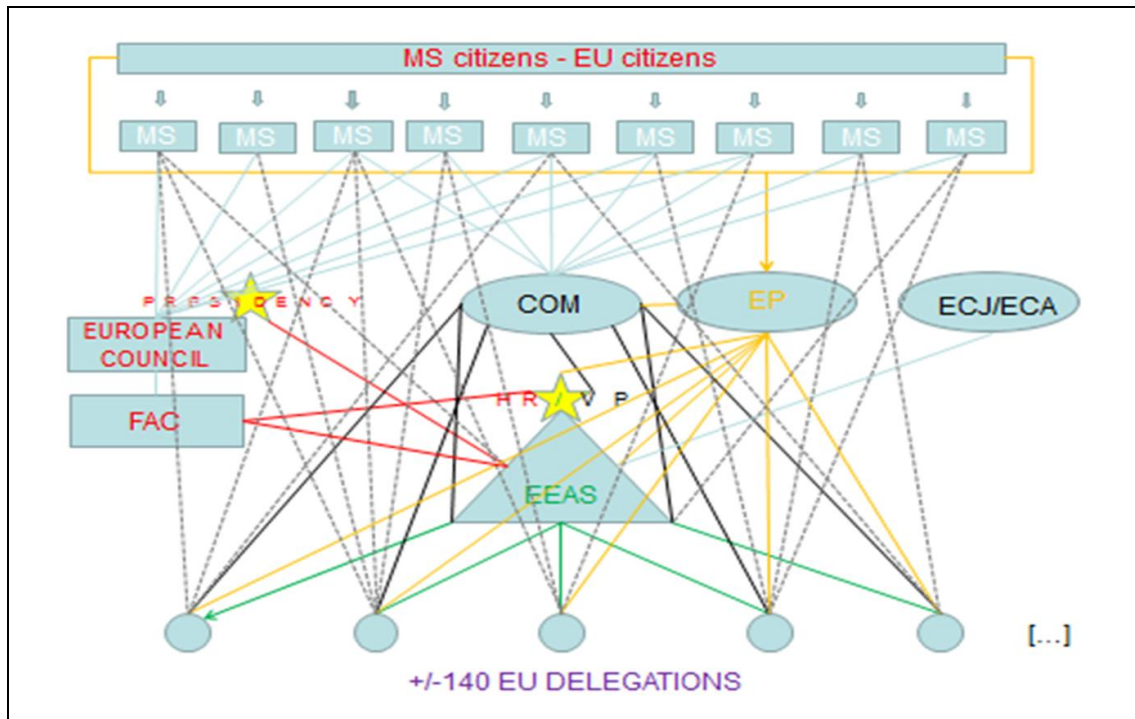


Figure 1. The EEAS in a web of accountability relations.

In the nascent literature on the EEAS the focus is frequently put on coordination and consistency of EU foreign policy (Austermann, 2014; Balfour, 2013; Duke, 2014; Dijkstra, 2013; Smith, 2013; Thomas & Tonra, 2012), where the EEAS has sometimes been described as a long missing bridge over the divisions of the old EU pillar structure. A public administration approach to the EEAS to understand the nature of the organization and its behavior has been attempted by Batora 2013, Formuszewicz and Liszczyk, 2013, Henökl, 2014a, 2015; or by Henökl and Trondal, 2015. Legal scholars have engaged in an interpretation of the framework set out by the Lisbon Treaty and EEAS Decision (Blockmans & Hillion, 2013, Van Vooren, 2011) and have discussed its competences and role within EU's institutional architecture, as well as its status with regard to international law (Cardwell, 2012; Wessel & Van Vooren, 2013; Wouters et al., 2013). And a growing literature is shifting the emphasis to changing diplomatic practices in the new service (Adler-Nissen, 2013, 2015; Bicchi, 2014; Lequesne, 2015). The establishment of the EEAS, it is suggested, may entail different ways of exercising control and the creation of new accountability relations, especially in a policy domain that frequently stayed outside the radar of parliamentary control at national level and has been described as a “*domaine réservé*” of the executive (Aron, 1995, p. 28), or “‘above’ normal politics” with regard to parliamentary scrutiny (Tonra, 2011, p. 1911). Accountability is particularly important in the field of external governance, where in many instances EU external action directly affects territories and populations outside of the EU, such as in military or civilian crisis management missions, by indirectly exercising sovereignty administration as in the cases of EUNAVFOR Somalia<sup>3</sup>, EULEX Kosovo or EUJUSTLEX Iraq<sup>4</sup>, and, more recently, in military and border management operations off the Libyan shores.

<sup>3</sup> Retrieved from [http://www.eeas.europa.eu/csdp/missions-and-operations/eu-navfor-somalia/index\\_en.htm](http://www.eeas.europa.eu/csdp/missions-and-operations/eu-navfor-somalia/index_en.htm)

<sup>4</sup> Retrieved from [http://www.eeas.europa.eu/csdp/missions-and-operations/eulex-kosovo/index\\_en.htm](http://www.eeas.europa.eu/csdp/missions-and-operations/eulex-kosovo/index_en.htm);  
[http://www.eeas.europa.eu/csdp/missions-and-operations/eujust-lex-iraq/background-material/index\\_en.htm](http://www.eeas.europa.eu/csdp/missions-and-operations/eujust-lex-iraq/background-material/index_en.htm)

The question of autonomy, control and democratic legitimacy of the EEAS and EU foreign policy making has pre-occupied a number of scholars (Bátora, 2010; Furness 2013; Henökl, 2014b; Raube, 2012; Sjurser, 2011, 2015; Stie, 2010; Tonra, 2011). The term EU foreign policy (in contrast to “European foreign policy”) in this article puts the emphasis on the EU institutions’ policy making more than on the European, i.e. the member states combined international relations<sup>5</sup>. While the literature on EEAS autonomy may be seen as the “flipside of the accountability-coin”, it does not satisfactorily deal with accountability issues. In addition, the existing research often focuses on how things ought to be, and findings are still inconclusive. What is missing, is a more systematic study of *de jure* and *de facto* accountability relations, mapping the different forums the EEAS has to answer to. With data from official documents, semi-structured interviews and a survey among policy-makers, this article contributes a cartography of the existing accountability relationships, based on a study of formal rules as well as empirical data on officials’, day-to-day embedment in accountability relations, and their individual accountability orientations and behavior. Focusing on the specific question of accountability, the article investigates to what extent the policy-making/shaping and implementation by the HRVP and the EEAS can be held to account, by whom and for what? Moreover, the contribution asks whether and to what extent the creation of the EEAS improves (or obfuscates) accountability of EU foreign policy, as compared to the pre-Lisbon situation.

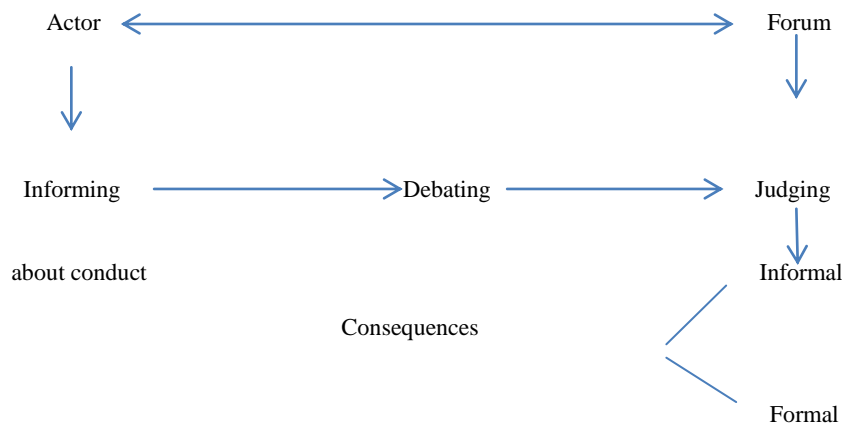


Figure 2. The generic model of accountability.

Note. Bovens et al., 2010, p. 41.

The article is structured in the following manner: In the second part, the analytical framework is sketched out, before presenting methodology and data in the third section. The fourth and fifth parts contain the analysis

<sup>5</sup> In the earlier literature EU foreign policy has been defined as the sum of national foreign policies, or as a policy “adopted by the Union’s member states to address issues and manage relationships beyond their collective external border” (Thomas, 2011, p. 10). To understand its distinct character, Hill (1993) theorized “European foreign policy” as “a system of external relations”, representing “a subsystem of the international system as a whole” (p. 322), consisting of three strands: national foreign policies, the CFSP and the Commission’s external relations. While the European Union is still not “a single actor”, EU foreign policy nowadays clearly goes beyond the mere coordination of the national foreign policies (Keukeleire, 2003). Instead, the former adds to the latter in substantial ways, and has essential properties of its own. It may be revealing for the multi-level character of the polity, extending also to the EU foreign policy domain, that both national and European dimensions coexist, “sharing authority across institutionalized, hierarchically structured sets of actors with varying degrees of unity/coherence, commitment to EU norms, and power resources” (Smith, 2004, pp. 742-744). Those dimensions need to complement each other in order to achieve a truly common foreign policy of the “new Europe”, where “the ‘credentials of the state’ are at issue” (White, 2004, p. 41; Smith, 1994, p. 22; Jørgensen, 2004).

of *de jure* and *de facto* accountability relations and forums, respectively. Finally, I summarize the findings and present some conclusions in the last section.

### Analytical Framework

Accountability, in its generic form, is defined as a social “... relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences” (Bovens et al., 2010, p. 35). As can be seen, it is a more comprehensive concept than a mere principal-agent relationship in that a full accountability arrangement requires institutionalised practices of information-giving, debate and sanctions/consequences between an agent (the accountable) and a forum (the body holding the agent to account).

From this generic accountability model, I start by mapping the forums to which the HRVP/EEAS are obliged (*de jure* and *de facto*) to give account for their conduct. The clout of the forum(s) will then be evaluated according to how well the three phases of information-giving, debate and consequences function as institutionalised practices of account-giving. To determine how well the different forums are at holding the HRVP/EEAS to account depend on which perspective or normative standard one applies. Bovens et al. (ibid.) develop three perspectives with three distinct rationales, namely democratic, constitutional and learning perspectives, explaining why accountability is important:

First, accountability is important to provide a democratic means for citizens and their representatives to monitor and control government conduct. Second, it is important for preventing the development of dangerous concentrations of executive power. Third, it is a pivotal tool for making government deliver better public value. (pp. 45-52)

The strength of the accountability arrangements in which the HRVP and the EEAS stand will consequently be discussed against these three perspectives.

At the first glance the following types of accountability (cf. Bovens et al., 2010, chapter 3), relevant for the EU’s foreign policy bureaucracy, can be discerned. These will be discussed in detail below, in the context of the different forums, to which they can be allocated:

(1) Political accountability: encompassing accountability arrangements *vis-à-vis* political institutional actors (such as the European Parliament and the Council), but also the EU member states; (2) Administrative accountability: consisting of accountability arrangements with regard to administrative and financial aspects, *vis-à-vis* the institutions and/or competent bodies of the Union (Commission, Court of Auditors); and (3) (Quasi-)judicial or legal accountability: encompassing accountability arrangements *vis-à-vis* judicial and quasi-judicial bodies (such as Court of Justice or national or international legal instances).

Conceptualizing the multi-level actor/forum relationships in the EU system, Bovens et al. (2010), Brandsma and Schillemans (2012) and Wille (2010), respectively elaborate on the increasingly sophisticated European “accountability architecture” and on an “accountability framework for multi-level governance”. Based on the Bovens (2007, 2010), analytical framework this contribution, firstly, sets out to map the accountability relations in which the HRVP and the EEAS stand, and secondly, discuss how the current (post-Lisbon) institutional arrangement ensures more (or less) accountability as compared to the pre-Lisbon situation. The question of legitimacy is however also linked to issues of representative bureaucracy (Gravier, 2008; Meier & Nigro, 1976, Meier & Jurée Capers, 2012, Peters et al., 2015), emphasizing a need for justification regarding to who is acting on behalf of the citizens, and based on which premises decisions are taken.

### Method and Data

The article draws on three main sources of data; relevant official documents, semi-structured interviews with 50 EU officials working in or closely with the EEAS as well as a survey among foreign policy decision makers. The methodology, used to analyse the survey data basically consists of looking at the relation between officials' previous and present affiliation and their conception of personal and organisational accountability relations (by asking about commitment to organizational ethics and accountability rules, loyalty and allegiance, importance of political guidance by the relevant forums, professional concerns etc.). Dichotomising between the different staff categories (permanent vs. temporary staff), the survey data is analyzed according to institutional provenance (supranational vs. intergovernmental recruits) to see whether there are differences, and if so, what these differences are. The point hereby is to determine whether beyond formal accountability rules, also informal relations (stemming from secondary affiliations or previous institutional roles) matter. In addition, the article also draws on information on changes in the work situation of officials, comparing the level of administrative discretion in terms of instructions and reporting lines, job responsibility and *marge de manoeuvre* to the situation before the establishment of the EEAS (For a presentation of the dataset from the 2013 EEAS survey, see Annex II EEAS survey data, below). As a measure of the level of inter-institutional conflict and cooperation, as well as perceptions of accountability relations, the survey also asked officials, how they believe the service is perceived by other institutions.

Table 1

#### *Accountability Types and Forums*

| Accountability types           | Accountability forums   | Subject matter   | Perspective                       |
|--------------------------------|---|--|-----------------------------------|
| Administrative                 | Commission, EP  | Implementation, due procedure                            | Efficiency/ learning              |
| Political                      | Council, EP; Commission<br>European Council; national parliaments                                     | Policy formulating, decision-making                      | Democratic control<br>/monitoring |
| Financial                      | EEAS Internal Auditor, Internal Auditor<br>of the Commission, European Court of<br>Auditors, OLAF, EP | Implementation, procedures (financial<br>regulations)    | Efficiency/learning               |
| (Quasi/indirectly-)<br>Legal   | Court of Justice  | Institutional status and competences                     | Constitutional-legal              |
| Professional<br>accountability | Member states' Ministries of Foreign<br>Affairs   | Policy-design and implementation,<br>peer-to-peer review | Efficiency/learning               |

Note. Typology according to Bovens et al., 2010, extended.

Following Sowa and Selden (2003), who recommend “an individual level-measure [...], one that captures how much discretion individual administrators perceive themselves as having in the operation of their duties”, perceptual data here functions as a way to approximate the informal accountability relationships (p. 703). More recently, also Jackson (2014), Maggetti and Verhoest (2014, p. 245) or Yesilkagit and Van Thiel (2008, 2012) confirmed the relevance of perceptual data for assessing the anticipated consequences on the “real world” decision-making by officials. I argue that accountability has an interactive dimension and is particularly relevant for decision behavior when it is institutionalized as an informal practice governing real-world relationships between individuals or organizations (Olsen, 2009; Schillemans, 2008).

Before analysing the *de facto* and informal day-to-day accountability conceptions of staff, measured across a set of discretionary practices and behavioural patterns of day-to-day administrative decision-making, the article first maps the existing formal *de jure* relationships, by forum and type of accountability.

### Mapping Accountability Forums and Relationships

In the most immediate sense, it is the HRVP who has to account to her political principals, and the EEAS as a body is “[...] placed under the authority of the HRVP”.<sup>6</sup> It is however difficult to see how the HRVP constitutes a forum to which the EEAS must render account. The relationship between the HRVP and the EEAS does therefore not amount to an accountability relation proper. Rather, the EEAS should be seen as the HRVP’s executive arm or body. For the EEAS then, a number of different accountability relations can be derived from the EEAS decision, and four types of accountability (in the typology of Bovens et al., 2010) can be identified (see Table 1).

In the following, the article focuses on the Foreign Affairs Council (FAC), the Commission and the European Parliament (EP) as these relations are the politically most salient forums for the EEAS. Moreover, the role of the remaining two institutions, the Court of Auditors (ECA) and the European Court of Justice (ECJ) is either relatively clear, as in the case of the ECA, or somewhat limited, as in the case of the ECJ, they are treated in a less detailed manner. Finally, neither the formal relationships between the EEAS and the European Council nor with the MS diplomatic services are discussed, because the Council Decision makes only allusive mention of them. They are, however, included in the empirical analysis, since politically they may be relevant for guiding and informing officials’ actions and accountability orientations.

### The Council of the European Union

The Council is the forum that mandates the HRVP to make proposals and implement policies that fall within the competence area of the Common Foreign and Security Policy. For these policies the Council is the place where HRVP has to seek approval and legitimize her actions. In addition, the Political and Security Committee (PSC), composed of MS representatives at ambassadorial level is a high-level decision-making organ that sends political guidance to EEAS structures on central matters of CFSP—as do the Political Directors of the MS MFAs by “advising” the Deputy Secretary General for political affairs or by regularly intervening at the Managing Directors and Directors’ levels on foreign policy issues (Interview #38).

Neither the Treaties nor Council Decision 2010/427/EU foresee any formal sanctioning mechanisms for the HRVP or the EEAS. In practice, as accountability forum the Council operates in a non-confrontational (consensual) manner, i.e. there are no formal sanctions against the HRVP or the EEAS. However, “misbehavior” on the part of the EEAS or HRVP may trigger negative diplomatic or ambient consequences, such as MS protesting (e.g. letters written to the HRVP<sup>7</sup>) or refusing to cooperate on a next occasion (Interview #02). Referring to Bovens et al. (2010), such a reaction of expressing disagreement may be categorized as an informal way of sanctioning.

The informal and political nature of the relationship with the Council is very well illustrated by the testimony of a senior EEAS official, responsible for the relations with the Political and Security Committee:

A lot of what we are trying to do is behind closed doors [...] This enables the HR to take initiatives and push decisions. It is about trying to anticipate what these decisions are going to be and to put them to the MS, so that when [the HRVP] does X, Y, or Z, that there is not a huge problem after she has done it. [...] Otherwise, there is an erosion of trust. So, next time when you have an issue MS will be much more restrictive on the boundaries of what can be done. It is a give and take.

<sup>6</sup> Cf. Article 1, Council Decision (2010).

<sup>7</sup> See the letter from 12 Member States to the HR/VP, December 2011.

It [...] is about the judgments made. (Interview #07)

The Council is also the forum deciding about the outcome of the review process that began in 2013 and is currently under way<sup>8</sup>. Even though this process is not expected to produce any major reforms or a revision of Council Decision 427/2010/EU, it clearly is a more formalized process of debate, judgment and, potentially, sanctions. Since the review process is directed at improving the functioning of the service, the Council as an accountability forum may also be seen in a learning perspective.

### **The European Commission**

In the case of the Commission, lines of delegation and accountability relations are complex and intertwined, not least because the Commission is itself a body vested with powers resulting from supra-national delegation by the EU MS. Competences are partly overlapping, instructions are issued by several sources. Reporting lines have in many instances been characterized as redundant (Duke, 2014; Wouters et al., 2013). Administratively, the EEAS needs to work closely together with the Commission in all areas of external relations that fall into community competences as well as for the implementation of its operational budget (see e.g. “Vademecum Note on Working Relations with the European Commission” of 2011). But also at the political level, due to the fact that the HR is a Vice President of the Commission, decisions pertaining to external relations have to be discussed and agreed upon by the college of Commissioners.

One specific point concerns the management of staff, as a key resource for the organization. The EEAS Review document tabled by HRVP in July 2013 speaks of two separate and parallel structures, and concludes that “this dual system leads to multiple debate on the same issues, delays in decision-making and can be an obstacle to direct contacts between the EEAS and Commission service with a stake in [EU] Delegations [to third countries]” (EEAS, 2014, p. 11).

In budgetary matters, EEAS administrative expenditures have to be planned “in consultation with the Commissioners for Development Policy and for European Neighbourhood Policy” (article 8, paragraph 3 of the EEAS Decision). In practice, the Commission is monitoring the EEAS procedures on a permanent basis, through the Foreign Policy Instruments service (FPI), a Commission department reporting directly to the HRVP, but legally and administratively depending on the Commission. In principle, the Commission, as the sole body under the Treaties empowered to implement the Union budget, could at any time stop the disbursement of operational funds (with the exception of the European Development Fund and military components of CFSP expenses, both outside the regular Union budget). The EEAS is also accountable to and works in close cooperation with the Internal Audit Service (IAS) of the Commission (EEAS 2014). From article 3.4 of the EEAS Decision results a duty of cooperation with the internal auditor of the Commission as well as with the EU Anti-Fraud Office (OLAF).

Overall the provisions under Art.3.4 EEAS Decision clearly point towards administrative accountability in the Bovens framework. In this category also the Commission’s responsibility for external operational budgets of the EU’s external action has to be mentioned: In financial terms, even though Art. 9 (6) of the EEAS Decision provides that actions taken under the Common Foreign and Security Policy (CFSP) budget, certain

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<sup>8</sup> Speech by HRVP Mogherini of 04 March 2015, see: “Joint press conference by High Representative/ Vice-President Federica MOGHERINI and Commissioner Johannes HAHN on European Neighbourhood Policy Review”. Retrieved from [http://europa.eu/rapid/press-release\\_SPEECH-15-4553\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-15-4553_en.htm)

actions under the instrument for Stability (IfS), the Instrument for Cooperation with Industrialised Countries (ICI), communication and public diplomacy as well as election monitoring will be the responsibility of the EEAS, the Commission remains responsible for the execution of the EU budget and for the management of programmes (in line with Art. 17 TEU). In order to respect the Commission's prerogatives the Inter-Service Agreement dated 13 January 2012 confirms that important budgetary and implementation competences remain with the Commission: "The EEAS shall refrain from taking measures [...] on issues which fall under Commission competence" (European Commission, 2011; Commission still pulls the strings on EU foreign policy, 2012, ECDPM Talking-Points, 2012).

DG International Cooperation (formerly DEVCO) underlines its competence and sole responsibility for operations and projects financed under Commission budget lines, co-programmed with the HRVP (the Development Cooperation Instrument, and the European Neighbourhood and Partnership Instrument, ENPI) and the mechanisms programmed by the HRVP, but managed by the Commission (the Instrument for Stability, IfS, the Instrument for Nuclear Safety Cooperation, and the European Instrument for Democracy and Human Rights<sup>9</sup>). To ensure its operational prerogatives, DEVCO has created a redundancy in keeping its own country desks at HQ for the central programme management, which serve as the connection with DEVCO personnel posted at EU Delegations as the "EU field offices" with regard to administration and implementation of development and cooperation programmes.

Commission DG DEVCO and ENP (European Neighbourhood Policy, now DG NEAR) have at least partly retained their control over the financing mechanisms, as "any proposals" on the three existing development instruments need to be made jointly by the relevant departments of the EEAS and those of DG DEVCO "under the responsibility of the Commissioner" and "submitted jointly with the High Representative for adoption by the Commission" (EEAS Decision 2010: Art. 9(4) and 9 (5)). Most recently, DG NEAR is also put in charge over a part of Commission staff in the field, at EU Delegation, and assumes also procedural co-responsibility in the implementation of policies and programmes (Interview #48). These intricate relations between the Council, Commission and the EEAS have been conceptualized as "nested delegation" elsewhere, referring to the EU's multi-level foreign policy system (Henökl, 2014a).

### **The European Parliament**

During the negotiations leading to the Council Decision setting up the EEAS, the EP – fearing a too strong service—managed to obtain greater political control over the EEAS. With the amendment of budgetary procedures, the implementation of the EEAS' operational budget remains subject to discharge by the EP, as provided for in Art. 319 TFEU and in Articles 145-147 of the Financial Regulation.<sup>10</sup> Moreover, the Financial Regulations were amended to include the EEAS in Article 1 thereof, with a specific section in the Union budget.<sup>11</sup> By using its budgetary power as negotiation chip the Parliament managed to increase its influence on the service and the EU's foreign policy. As Vice President of the EP, Ulrike Lunacek (Greens) expressed, "the

<sup>9</sup> A complete list of cooperation mechanisms should also include the European Development Fund, EDF, for the group of ACP countries, based on the 2003 Cotonou agreement (intergovernmental instrument, funded directly by the MS, outside the EU budget).

<sup>10</sup> Council Regulation, (EC, Euratom) No 1605/2002 of 25 June 2002 on the "Financial Regulation applicable to the general budget of the European Communities (the 'Financial Regulation')".

<sup>11</sup> In accordance with the applicable rules, and as is the case for other institutions, a part of the annual report of the Court of Auditors will also be dedicated to the EEAS, and the EEAS has to respond to such reports.

EP can use the instrument of blocking certain administrative budget lines, e. g. for EEAS salaries, in order to get its will with regard to structural changes or to have its positions taken seriously” (Interview #36).

In addition to administrative accountability (over administrative budget and staff as foreseen by financial and staff regulations), by including a “Declaration on Political Accountability” in the EEAS Decision the EP also ensured political accountability where the HRVP (or senior EEAS bureaucrats and diplomats) have to answer to questions before the EP plenary or its competent committees.<sup>12</sup> In case the HRVP cannot participate in a plenary debate of the Parliament, she would have to be replaced by a competent (DEVCO, ELARG/NEAR, TRADE) Commissioner or by the Foreign Minister of the member state holding the rotating Presidency. Also, EU Heads of Delegations and EU Special Representatives have to undergo Parliamentary hearings before they are formally introduced to their offices and taking up new posts. Other than naming and blaming during public debates or via reports and parliamentary motions, the EP has at several occasions threatened direct sanctions to the EEAS, namely by withholding EEAS’ budget lines (*ex ante*) or not discharging the EEAS from budget responsibility (*ex post*), under the EPs co-responsibility (with the Council) for the Union budget.

Even if formally abolished, the distinction between the EP’s first and second pillar competence areas is also present in the EP’s relationship with the HRVP/EEAS. Whereas the EP has full legislative and budgetary powers in trade, development and neighborhood policies, security and defence policy is still intergovernmental and at the prerogative of the member states through the Council holding both executive and “legislative” authority in this policy field. Thus, in security and defence issues, the supranational institutions—in particular the EP, but also the Commission and the ECJ—hold more limited powers. With regard to security and defence, as indicated in the citation above, the EP has only a right to be “regularly consult[ed] (...) on the main aspects and basic choices of the CFSP” and to have their views “duly taken into consideration”. Hence, unlike in trade, development and neighborhood policy where the EP has full legislative and budgetary powers and shall exercise political control and consultation (Article 14(1) TEU), there is a fundamental difference between the former first and second pillar areas and thus also with regard to the EP’s ability to hold the HRVP/EEAS to account in the respective policy fields. This difference is also exacerbated by the nature of the security and defence as a policy area traditionally subject to high levels of secrecy and confidentiality, where the EP as a collective body does not have full access neither to substantial debates nor to all relevant documents. Instead, a special arrangement was set up through an inter-institutional agreement whereby a committee consisting of five MEPs can peruse sensitive documents, but only at special facilities in the Council building and without permission to pass on any information about the existence of and content in such documents neither to fellow MEPs nor the public at large (cf. OJ 2002/C298/01; Rosén, 2015). Naturally, these conditions are limiting the EP’s capacity to hold the HRVP/EEAS to account, but since the EP originally had no rights in this policy field, the special committee arrangement provided Parliament at least with some formal clout in CSDP.<sup>13</sup> It should, however, be noted in this regard that the special committee has become an arena where the five MEPs not only read documents, but also a setting for dialogue between the MEPs and the HRVP. In this way, some entrusted MEPs are let in on the more “real” policy discussions in the CFSP. In accountability terms, it is suggested that this could be labelled “elite accountability” which only allow for an element of checks and balances, but lacks the popular anchoring a representative and publicly accessible parliamentary scrutiny process can provide.

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<sup>12</sup> Cf. “Declaration on Political Accountability” in the EEAS Decision.

<sup>13</sup> See Rosén (2015) for a discussion on the negotiation process setting up the Inter-institutional agreement.

A number of scholars have observed the EP's strengthened role in EU foreign policy matters (Furness 2013, Raube, 2014, Wisniewski, 2013). All in all and despite the still very limited powers in CSDP, the Parliament has over the last four years been able to carve out a role as one of the political overseers of the EEAS.

### **The Courts of the Union**

With regard to the other two institutions, the role of the Court of Auditors deserves to be mentioned: The fact that the EEAS is an institution in the sense that it figures separately in the Union budget makes it also accountable to the Court of Auditors, and is included in the ECA's annual report. In a number of examples the ECA is already exercising its full administrative and financial right of control over the EEAS. Less important, on the other side, is the relationship to the Court of Justice. In virtue of article 1 of the Council Decision the EEAS has been given "the legal capacities to perform its tasks and attain its objective". Since the EEAS has not been set up under primary law and hence it is not part of the institutions named under Art. 13 TEU, it remains to be seen whether the EEAS has the legal standing to be a party in proceedings before the Court (Van Vooren 2011; Blockmans & Hillion, 2012). In the case of a lawsuit before the ECJ, where the institutional or substantive position of the EEAS is the subject of litigation, the service will probably be the object of proceedings between Parliament, Commission or Council, rather than being itself and active party before the Court (Van Vooren, 2011).

### **An Accountable External Action Service?**

Other than the presented *de jure* accountability relations it should be of interest to examine the *de facto* dynamics regarding the EEAS' sensitivity for political concerns and signals. In the following I present some of the insights gained from the above mentioned EEAS survey study, conducted in 2013. Decisional premises and sensitivity to signals and concerns in an environment of bounded rationality and high uncertainty indicate the perceived *de facto* accountability relations (as an expression of a sense of responsibility and answerability to outside institutions, as their "significant others").

"Formal organizations temporarily settle issues about tasks, authority, power and accountability" (Olsen 2010, p. 37). Accordingly, bureaucrats' identities and role perceptions may be an indicator of their "sense of belonging" in terms of administrative rules and perceived accountability relations. Therefore, the survey asked which rules officials stick to when facing a situation that requires ethical judgements or accountability-related evaluations.

Most officials emphasize the "rules and regulations of [their] present affiliation" with 82% saying "strongly" or "very strongly", followed by the "staff regulation for the personnel of European institutions" (78%) and "my supervisor/hierarchy" (70%). Less than nine percent answered that they "strongly" emphasized guidelines by their national coordinator. More important seems to be the "Code of conduct for the civil service" (69%), which in the EU context is an abstract notion rather than a document directly applicable to staff of EU institutions.

The fact that "rules and standards for EU agencies" (20%) score much lower could be taken as a statement that EEAS is not seen as an agency but rather close to a core EU decision-making institution. To see more specifically which officials chose different sets of rules or guidelines could give us a hint regarding their (converging or diverging) organizational identities and role perceptions.

**Accountability in Practice**

Presented with a choice of different political actors outside their own organization, officials pay most attention to central level EU institutions (European Commission—74%, Foreign Affairs Council and European Council both 68%, and finally the European Parliament—58%. Only then follow “the big EU member states”—51%, “the medium-sized EU member states”—30%, International Organizations—23%, “the small MS”—22%, and, finally, “signals from the domestic government of my own member state”—17%).

Table 2  
*Rules for Accountability and Loyalty (N = 148)*

|  | (very) strongly (%) | Somehow (%) | Less strongly/ Not at all (%) | Can't say (%) |
|--|---------------------|-------------|-------------------------------|---------------|
| Rules institution of origin (recruitment source) | 53.4                | 8.8         | 26.3                          | 11.5          |
| Rules present affiliation (present employment)   | 81.8                | 10.8        | 1.4                           | 6.1           |
| Staff regulations EU institutions                | 77.7                | 12.2        | 4.1                           | 6.1           |
| Code of conduct for the civil service            | 68.9                | 12.8        | 7.4                           | 10.8          |
| Rules and standards for EU agencies              | 20.3                | 11.5        | 33.1                          | 35.1          |
| Supervisor/hierarchy                             | 70.3                | 14.9        | 6.1                           | 8.8           |
| National coordinator                             | 8.8                 | 4.1         | 48                            | 39.2          |

Note. Rules for conflicts of interests and loyalties (n = 148); Original code list: “Very important” (value 1), “important” (value 2), “somewhat important” (value 3), “less important” (value 4), “not important” (value 5), “can’t say” (value 6). Original survey question: “When facing a conflict of interests or conflicting loyalties how much do you emphasize the guidelines provided by the following?”

Table 3  
*Political Signals by Previous Affiliation (Source of Recruitment) (Total n = 130)*

| Singals                 | Intergovernmental (MS and SGC) staff (n = 46) |                        |                      | Supra-national (Commission) staff (n = 84) |                        |                      |
|-------------------------|---|------------------------|----------------------|--|------------------------|----------------------|
|                         | (Very) important (%)                          | Somewhat important (%) | Less/not important % | (Very) important (%)                       | Somewhat important (%) | Less/not important % |
| European Council        | 83  | 13                     | 4                    | 75   | 19                     | 6                    |
| Foreign Affairs Council | 83  | 11                     | 7                    | 77   | 15                     | 9                    |
| European Commission     | 77  | 10                     | 13                   | 83   | 13                     | 5                    |
| European Parliament     | 53  | 22                     | 24                   | 72   | 22                     | 6                    |
| “Big” MS                | 73  | 21                     | 6                    | 50   | 20                     | 31                   |
| “Medium-sized” MS       | 33  | 52                     | 15                   | 36   | 33                     | 31                   |

Note. Political signals previous affiliation (Total n = 130); Original code list: “Very important” (value 1), “important” (value 2), “somewhat important” (value 3), “less important” (value 4), “not important” (value 5), “can’t say” (value 6).

There is a clear emphasis put on signals from EU-level institutions. Here, an interesting observation concerns the relative importance that is given to the EP. Even if not a full co-legislator in all policy areas covering EU external action, MEPs’ ability smartly playing their hand throughout the negotiations resulting in the EEAS Decision and thus gaining more influence and political weight *vis-à-vis* other EU institutions, is reflected in the answers of EEAS officials. However, this is an observation that is also shared by Commission officials, for instance in a quote, summarizing a trend detected by Ellinas and Suleiman (2012): “For many years the EP was unimportant and it was ignored. It had the least standing among the institutions of the EU. It is undergoing a process of transition—gaining power and knowing how to use it” (p. 80).

### Variation According to Organizational Affiliation

As mentioned, the personnel of the EEAS is recruited from different institutional sources: the former DG RELEX, SGC, and the diplomatic services or the EU member states. By simple cross-tabulation I analyzed varying patterns of receptivity and attention paid to the signals and concerns of different accountability forums.

These results indicate a rather sharp difference when it comes to political orientation between the two staff-groups: former Commission staff is much more receptive towards signals from supra-national accountability forums, such as the European Commission and the EP, than their counterparts recruited from the member states. The latter are paying slightly more attention to the European Council and the FAC and significantly more attention to signals from the big member states. Less surprisingly for hierarchically structured organizations, the officials' sense of accountability is most strongly developed towards the political leadership/senior management and their own direct superiors.

These patterns are even more pronounced comparing EU officials' present affiliation, namely by employer. While those working directly for the EEAS (EEAS and MS' seconded diplomats) are more intergovernmentally oriented, officials who are working in EU external relations but employed by the Commission (working either in EU Delegations in third countries or for the Commission services at the disposal of the HRVP) are clearly more committed to their supranational overseers (data not reported in detail here).

Table 3

*Concerns by Organisational Provenance (Previous Affiliation, Total n= 147)*

| CONCERNS                  | Intergovernmental (MS and SGC+ other)<br>staff (n = 52) |                        |                        | COMMISSION staff (n = 95) |                        |                        |
|---------------------------|---|------------------------|------------------------|---------------------------|------------------------|------------------------|
|                           | (Very) important (%)                                    | Somewhat important (%) | Less/not important (%) | (Very) important (%)      | Somewhat important (%) | Less/not important (%) |
| Political concerns        | 88  | 4                      | 8                      | 78                        | 18                     | 4                      |
| Interest of unit/division | 75  | 17                     | 8                      | 83                        | 13                     | 4                      |
| Interest of DG/service    | 73  | 17                     | 10                     | 84                        | 13                     | 3                      |
| Interest of the EU        | 90  | 4                      | 6                      | 95                        | 4                      | 1                      |
| Interest of own MS        | 25  | 14                     | 61                     | 5                         | 9                      | 86                     |

*Note.* Concerns and considerations by PREVIOUS affiliation (Total n = 147); Original code list: "Very important" (value 1), "important" (value 2), "somewhat important" (value 3), "less important" (value 4), "not important" (value 5), "can't say" (value 6).

Similar observations can be made for the type of concerns that are emphasized by the different groups of personnel. Although overall, the accountability orientation is directed towards the interests of the Union, some slight differences can be observed (see Table 3).

Former Commission personnel tends to be slightly more Community-minded and much less attuned (by 20%) to relations with the MS. In addition, the intergovernmental recruits are overall more politically oriented, and feel less strongly accountable to the supra-national organs, represented here by their service (the EEAS) or unit, or the "interest of the EU" in general.

### Concluding Remarks

The implementation of the Lisbon Treaty and the establishment of the HRVP/EEAS have affected the accountability of EU foreign policy making in significant ways. First, it has put the EU's external action high on the public agenda and increased its visibility. Whilst before, security and defence policies were exclusively

dealt with by the member states and the Council Secretariat General, they are now accessible to other forums in the EU institutional landscape. Even if it should not be exaggerated, the rise of the EP as an accountability forum is clearly the most striking development. As the only directly elected body, it represents the link to the EU citizens, exercises popular control over and thereby increases the democratic legitimacy of EU foreign policy. Second, from a constitutional perspective, the EP also contributes to strengthening important functions of checks and balances, reducing the likelihood of power concentration or the emergence of an autonomous and potentially “run-away” bureaucracy. In this way, the EP is thus directly overseeing the EEAS, but indirectly also extending its scrutiny to decision-making in the Council (with regard to EU foreign and security policy) as well as the European Commission (concerning all other aspects of external relations). Finally, from a learning perspective, the activities of the EP, notably motions and reports by its AFET committee, pushing for a more comprehensive approach to external action, but also for more efficiency and transparency, can also be seen as a crucial contribution to ensuring and improving the public value of foreign policy decisions. In short, the EP’s involvement in the Union’s external action proves to be the most novel and significant development in the EU’s post-Lisbon foreign policy. In terms of popular control, the EP’s watchful eye on the HRVP and the EEAS has made this policy field more open and transparent than the more informal and opaque situation before Lisbon.

As demonstrated, accountability relations come in different dimensions, i.e. political, financial, administrative, and legal, depending on the object of investigation. In the case of the EEAS, various EU bodies fulfil those functions, and in the political and administrative dimensions certain overlaps and problems of multiple accountability have been detected. This also shows in the empirical data on officials’ accountability behaviour. Different staff groups, depending on their source of recruitment and present organizational affiliation tend to emphasize rules and signals by forums. Unveiled by earlier research (Henökl, 2014b, 2015), this situation is aggravated by the presence of organizational ambiguities with regard to roles and rules, mission and vision as well as by political rivalries between community institutions, Council as well as the member states. This may result in a “problem of many eyes” (Bovens et al., 2010, p. 41).

Moreover, new accountability relations produce some redundancies, complex and partly overlapping and sometimes conflicting accountability relations that may build up to what has been labelled a “multiple accountability disorder” or, in the worst case, lead to loss of control (Bovens et al., 2010). In this respect the new institutional cycle, after a further increase of the EPs institutional standing, with the de facto election of the Commission President in May 2014, may offer the opportunity to remedy existing shortcomings, eliminate redundancies and improve the overall functionality of the system of checks and balances holding the EEAS to account.

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