

The role of EU Special Representatives in the post-Lisbon foreign policy system: A renaissance?

Issue 2012/02 · June 2012

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The Lisbon Treaty has brought some major changes to the conduct of EU foreign policy most especially with the creation of the double-hatted post of High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the European Commission (HR/VP), in the person of Baroness Catherine Ashton and the European External Action Service (EEAS). While important foreign policy fields like neighbourhood and development policies continue to be administered by the European Commission, some of the Commission's departments plus former parts of the Council Secretariat – particularly those dealing with crisis management policies – were merged to create the new EEAS. However, the European Union Special Representatives (EUSRs) do not form part of the EEAS hierarchy. They have been at the disposal of the Council since 1996, and, since 1999, have operated under the responsibility of the then Common Foreign and Security Policy (CFSP) High Representative, Javier Solana. Initial scepticism about the EUSRs by Catherine Ashton, Solana's successor, have diminished in the last two years. With the present crisis in Syria, and continuing unrest in many other countries in the Arab world, it is likely that further EUSRs will be appointed in the coming months. Although their diplomatic work could be managed by the EEAS, this IES Policy Brief argues that due to their autonomy from both the EEAS and the European Parliament, some Member States consider the EUSRs as a flexible foreign policy instrument that operates beyond the existing institutional hierarchies of EU foreign policy. Consequently however, this means that the potential increases for 'clashes of competence' between the EUSRs and other EU actors such as the EEAS. This in turn

Summary

EU Special Representatives have been deployed since 1996 in order to contribute to the EU's crisis management efforts in various crisis regions. As they are not part of the formal hierarchy of the European External Action Service and thus a rather flexible foreign policy instrument at the disposal of the Member States, new special representatives have been appointed in 2011 and 2012. This Policy Brief argues that the representatives' autonomy must not necessarily lead to 'clashes of competence' with the EU's diplomatic service.

may prompt incoherence and inconsistencies in the EU's crisis management efforts.

The special representatives' role and mandates

As one of the oldest CFSP instruments, the EUSRs are appointed by the Council of Foreign Ministers for a variety of mandate areas ranging from single countries to regions. As of June 2012, the ten EUSRs are to be found working in Afghanistan, the African Union, Bosnia and Herzegovina, Central Asia, the Horn of Africa, Kosovo, the Middle East peace process, the South Caucasus and the crisis in Geor-

gia, the Southern Mediterranean region as well as Sudan and South Sudan. The point of the EUSRs is to represent the EU in those “crisis areas” in which the EU is willing to play a role as an international actor. They do this by obtaining and analysing information on the various conflicts, in order to contribute to developing a common EU policy towards the mandate area, and to better contribute to international mediation efforts in areas like the Sudan or Georgia. This often requires close coordination with other diplomats, including special representatives of international organizations from the UN, OSCE, NATO and other regional organizations. After the EU had deployed its first missions in the framework of the Common Security and Defence Policy (CSDP), starting with the European Union Police Mission in Bosnia and Herzegovina in 2003, the EUSRs quickly became relevant for the coordination of EU actors “on the ground”, to which they also give local political guidance. While most of the EUSRs are based in Brussels, those EUSRs in Afghanistan, Bosnia and Herzegovina and Kosovo are now resident in the mandate areas and have gradually been “doubled hatted” as both acting EUSR and head of the relevant EU Delegation, the former European Commission Delegations. Similar to the selection of other high-ranking positions in the EU, the nomination of EUSRs is frequently akin to horse-trading between Member States. Given that mandate areas are themselves a politically sensitive issue in which the Council has to strike a balance between the Member States’ diverging interests in regions outside of the EU, both the choice and deployment of EUSRs is no easy task.

Whereas prior to the Lisbon Treaty, the Council could appoint a EUSR whenever deemed necessary, in the post-Lisbon era, the HR/VP now has the sole competence to propose a EUSR to carry out the EU mandate under the direct authority of the HR/VP. Although the number of EUSRs was originally to be reduced, and their tasks gradually taken over by the EEAS, fast-moving developments in North Africa in 2010-2011 prompted the Council to appoint a variety of new EUSRs. Thus, in response to the “Arab Spring”, the foreign ministers in July 2011 appointed a EUSR for the Southern Mediterranean region. Being concerned about the humanitarian crisis affecting several

countries in the Horn of Africa, another EUSR was appointed for the region in December 2011. Finally, a new EUSR was appointed in February 2012 to represent the EU in the Middle East peace process. Further nominations may follow, e.g. the appointment of an EUSR for the ongoing crisis in Syria.

The special representatives’ relations with the EU institutions: Potential for conflicts of competence?

The new appointments were influenced by a variety of practicalities. First, when the Lisbon Treaty entered into force, it was generally assumed that the EEAS would employ a much higher number of staff than is the case today. As a result, the action service is hardly able to cover all policy areas that were originally envisaged for it. In addition, the managing directors who were to take over various tasks from the EUSRs appeared overloaded with other responsibilities, with little time to travel to, and competently assess areas of conflict. Catherine Ashton and senior EEAS officials therefore seem in favour of retaining the EUSRs at least for a transitional period. Second, while the EEAS’ (administrative) budget is part of the EU budget, supervised by the European Parliament (EP), all administrative and operational expenditures resulting from EUSR activities are financed by the CFSP chapter of the EU budget. The management of these funds which are administered by the European Commission’s Foreign Policy Instruments Service, is more flexible than the administration of funds of the normal EU budget. This perhaps explains why the Member States have become increasingly interested in retaining the EUSRs as a rather flexible policy tool.

By not being funded out of the same budget, the EUSRs are not part of the direct hierarchy of the EEAS, and are therefore internally considered as “free electrons” within the system. An interesting issue that could become critical at some point is the relationship between the EUSRs and those EEAS departments who work on similar issues. Clearly decent cooperation will depend on informal contacts between the EUSRs and EEAS officials like the managing directors, the members of the Corporate Board

and of Catherine Ashton's cabinet. In addition, as a result of a lack of funds and personnel, the EEAS staff might be tempted in the future to "integrate" members of the EUSR teams who are based in Brussels – and often in the same building – into their daily work. However, financial regulations stipulate that EUSR staff should not do the work of the EEAS personnel. While the EUSR teams and the EEAS units are supposed to closely coordinate their work, there are specific rules that need to be kept in mind regarding in their cooperation. As EU officials have argued, although the EEAS staff would at times be irritated with regard to the level of independence of EUSRs, the cooperation has thus far worked well.

A second "coordination challenge" in the post-Lisbon transition phase is the relationship between the EUSRs and the EU Delegations. Prior to the Lisbon Treaty, the EUSRs were to contribute to – often highly political – issues like conflict resolution, whereas the European Commission Delegations were mainly responsible for the funding and implementation of EU projects in the field. This division of labour may gradually change due to the fact that EU Delegations are now to become more involved in political affairs. As an example, the Delegations are gradually taking over the functions of the local EU Presidency, i.e. to speak within a given third state on behalf of the EU as a whole, and to coordinate a common position among the Member States' embassies.

Despite the creation of the EEAS, the European Commission is still responsible for the implementation of many EU external policies. As those are often interlinked with key CFSP issues, the Commission and the EEAS are in many respects dependent on each other. As a result, Catherine Ashton has to coordinate her work with respective Commissioners in the College of Commissioners. However, when administering the external relations funds, many Commission units are supposed to follow the policy lines of the EEAS. Due to their budgetary provisions, the EUSRs can hardly work effectively without closely cooperating with the Commission, which can reinforce and tangibly support their diplomatic work through financial aid. The EUSRs also have to take the positions of the Parliament into account. In the past, the

EUSRs have been criticised by MEPs, highlighting problems over democratic accountability in their work. However, with more regular participation of EUSRs in parliamentary hearings over the last years, the relationship between the EP and the EUSRs has improved. Although only an informal practice, the EUSRs now have to present themselves to the EP's Committee on Foreign Affairs (AFET) before taking up their posts, and to regularly brief the Parliament on their actions.

Options

In sum, whereas it initially seemed that the EUSRs might become an obsolete instrument in the EU's foreign policy system, there has now been something of a 'renaissance' in their appointments to key mandate areas in the world in the last year. However, administrative conflicts may still arise from their unclear position within the EU foreign policy system. This in turn could have detrimental effects on the EU's crisis management efforts. To alleviate conflict, the following three policy suggestions are ventured:

1. EUSR teams and the EEAS staff should ensure proper coordination, for example by establishing informal coordination procedures in which all EEAS, EC and EUSR team members working on similar issues meet regularly and coordinate their activities. This would contribute to the EUSRs' effectiveness, which is also of value to the EEAS. Similarly, regular meetings between the EUSR teams and the EU Delegations working on the same region should be established to ensure proper coordination.
2. The Member States should not regard the EUSRs as an instrument by which to side-line the work of the EEAS. It can be argued that the appointments of the new EUSRs in 2011 and 2012 were not only driven by budgetary considerations, but were very much an attempt by Member States to retain sufficient control over the content and orientation of the CFSP. In practice, the Member States' control over the EUSRs may lead to outright competition between the EUSRs, EU Delegations, and powerful units within the EEAS. As this would contravene the initial philosophy of the

EEAS' establishment – the creation of a more integrated and coherent EU foreign policy – such a situation should be prevented by any means. Member States should therefore endeavour to demonstrate a genuine interest in strengthening the EEAS, by instructing EUSRs to cooperate as closely as possible with the new service. On the other hand, in order to accommodate the member states, the EEAS officials should respect the autonomy of the EUSRs to a certain extent.

3. EUSRs should themselves seek close coordination with the relevant departments within the Commission, without which they will not succeed in their daily work. In addition, they should retain good relations with the Parliament, for example by regularly providing it with transparent information on their activities, and thus ensuring the EP's support.

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Policy briefs are published by the
Institute for European Studies

Jean Monnet Centre of Excellence
at the Vrije Universiteit Brussel

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