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A Democratically Accountable European External Action Service: Three Scenarios

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Abstract: Democratic accountability is an aspect that seems to have been almost entirely overlooked in discussions on the evolving role of the European External Action Service (EEAS). In modern democratic societies, it is increasingly difficult to sustain the claim that foreign policy and diplomacy are incompatible with democratic decision-making and accountability. What is more, for the external service representing the EU as an entity aspiring to play the role of a mentor in state- and democracy-building processes in various countries around the world, ensuring *democratic* accountability necessarily becomes a key concern. While this is the case, the literature on the EEAS has at best only partially addressed this issue thus far. This article seeks to bridge that gap and discuss ways of how democratic accountability could be ensured in the EEAS in its various possible organizational configurations. It hence addresses some of the key issues addressed by this special issue – institutionalization of administrative arrangements in support of the ESDP, the role of non-elected officials in the EU's external relations and, indeed, evolving mechanisms for ensuring political control of the EU's external action. In the first section, the paper discusses the notion of democratic accountability and reviews the state of the debate regarding democratic accountability in the EEAS. Three models of a democratic order in the EU are then suggested (cf. Eriksen and Fossum) and based on those, three scenarios of developing democratic accountability in the EEAS are elaborated upon – the EEAS as a support agency for member

state diplomacy; the EEAS as a federal foreign service of the EU; and the EEAS as a cosmopolitan normative entrepreneur.

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1. Introduction

Following the successful ratification of the Lisbon Treaty, the European External Action Service (EEAS) is being established under the leadership of High Representative Catherine Ashton. The EEAS is to consist of staff of external relations DGs of the Commission, the Council Secretariat and seconded diplomats from member states. It is neither part of the Commission nor of the Council – it is an institution of its own kind, a new element in the institutional architecture of the EU. It is expected to mitigate some of the key coordination problems related to the fragmented organizational capabilities in the EU's diplomatic action both at the EU-level in Brussels and on the field-level in third countries (Grevi 2007, Avery 2008, Crowe 2008, Duke 2009, Keukeleire et al. 2009). Still, the actual organizational arrangements for the EEAS, its size, functions and, indeed, its very role in the institutional architecture of the EU, were still to be specified at the time of writing.[1] An aspect that seems to have been almost entirely overlooked in the discussions on the evolving role of the EEAS thus far is democratic accountability. Partly, this may have to do with the fact that diplomatic establishments are traditionally more concerned with instrumental efficiency in promoting the external interests of the entity they represent, and less concerned with being open to scrutiny by citizens or parliaments.[2] With further development of its external service, the EU faces a

dual challenge here. On the one hand, in search of legitimacy as a new "foreign service", the EEAS will be subject to isomorphic pressures, which will prompt it to comply with the ruling standards within the global organizational field of diplomacy. These institutionalized standards place a premium on effectiveness in interest promotion and there is traditionally somewhat less focus on the democratic accountability of diplomatic decision making (Bátora 2008a). On the other hand, in modern democratic societies in general, it is increasingly difficult to sustain the claim that foreign policy and diplomacy are incompatible with democratic decision-making and accountability (Goldmann 1985, Risse-Kappen 1992, Hill 2003, Bobbio 2007). What is more, if promotion of democracy is a primary goal in the EU's external policy and the EU has a system-transformative meta-agenda in relation to the global order[3], there is a different set of procedural expectations – a different logic of appropriateness[4] – attached to such a role. The difference between traditional state diplomats and the diplomatic representatives of the EU in semi-sovereign countries like Bosnia-Herzegovina or Kosovo is that the latter are in charge of co-governing the countries with extensive powers and budgets at their disposal (Knaus and Martin 2003).[5] While instrumental effectiveness in promoting interests is important here, democratic legitimacy and control of foreign policies promoting democratic governance in third countries becomes a necessity (Sjursen 2007, Wagner 2007). Hence, while traditional foreign services may at best be primarily concerned with bureaucratic accountability, for the EEAS representing an entity aspiring to play the role of a mentor in state- and democracy-building processes in the Western Balkans and elsewhere, ensuring *democratic* accountability necessarily becomes a key concern (Martin 2009). While this is the case, the literature on the EEAS has at best only partially addressed this issue so far. This article seeks to bridge that gap and discuss ways of how democratic accountability could be ensured in the EEAS in its various possible organizational configurations. It hence addresses some of the key issues addressed by this special issue – institutionalization of administrative arrangements in support of the ESDP, the role of non-elected officials in the EU's external relations and, indeed, evolving mechanisms for ensuring political control of the EU's external action.

In the first section, the paper discusses the notion of democratic accountability and reviews the state of the debate regarding democratic accountability in the EEAS. Three models of a democratic order in the EU (cf Eriksen and Fossum 2007) are then suggested, and based on those, three scenarios of developing democratic accountability in the EEAS are elaborated upon. Conclusions follow.

2. Accountability and the EEAS: Where do we stand?

Before reviewing specific issues raised in the debate of accountability in the EEAS, it will be useful to recall some basic notions of what accountability actually implies. While there are different notions of accountability, this paper follows Bovens (2007, 450) and defines it as "a

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."[6] Any accountability relation consists of an *actor*, who is to be held accountable by an *accountability forum* (ibid.). The actor can be a person or an agency, while the accountability forum can be a person (e.g. a superior, a minister) or an organization (e.g. a parliamentary body, an audit agency etc.). For an accountability relation to be effective, there need to be at least three elements: the actor should have the obligation to inform the accountability forum of her conduct; the accountability forum should have a right to question the actor about her conduct; and the accountability forum should also have a right to pass judgement about the conduct of the actor with a possibility of sanctions of such a kind, which lead to a situation in which the actor would face consequences (ibid. 451-452). Basically, accountability implies that actors are obliged, either formally or informally, to explain and justify their actions in front of a given accountability forum.

Modern systems of democratic governance involve different types of accountability. Bovens (ibid. pp. 455-457) lists six. *Political accountability* relates primarily to the relation between members of the executive (ministers) and the respective parliamentary assembly. There are, however, also alternative informal forums of political accountability, among which the *media* has been the most prominent in recent decades. *Legal accountability* relates to relations between actors and civil courts, where the European Court of Justice has been an increasingly important forum in the EU. *Administrative accountability* relates to relations between actors and quasi-legal supervising and audit bodies exercising administrative and financial scrutiny. *Professional accountability* then describes the relation between actors and professional peers and professional associations maintaining standards within a given politico-administrative field. Finally, *social accountability* has been increasingly important in recent decades. This relates to the need for actors to legitimize and justify conduct in relation to a multitude of relevant societal stakeholders, interest groups and citizen initiatives.

As will be shown below, these dimensions might provide useful indicators for studying accountability of the EEAS. What is also important, though, is the EU's role as a promoter of democracy in its neighbourhood and worldwide (see Matlary 2002, European Security Strategy 2003), which raises additional issues of *democratic* accountability in the formation of the Service. In general, democratic accountability involves the notion that political decisions need to be based on open and free deliberation of citizens and/or their representatives, and decision-makers are held accountable by the broad public constituency (Mill 1862).

This is a challenge as, traditionally, international affairs and their management has been perceived as happening in an area outside the domestic democratic institutions and procedures and norms attached to them. Agencies or ministries managing foreign affairs as well as international institutions, while susceptible to the types of accountability discussed above, were traditionally less inclined to be susceptible to democratic accountability. This became apparent already in the early 20th century in the foreign ministries' successful avoiding of

extensive public scrutiny demanded by parliamentary assemblies in France and Germany and other European countries (Lauren 1976, Hamilton and Langhorne 2005). Symptomatically, career diplomats' scepticism towards Woodrow Wilson's notion of "open covenants openly arrived at", was expressed by Harold Nicolson who was happy to imagine "open covenants", but could only hardly think of them being "openly arrived at" (Nicolson [1939] 1988). Despite resistance from the professional diplomatic circles, calls for increased democratic accountability in foreign affairs administrations have been continuously repeated in the context of growing interconnectedness of domestic and foreign policies in modern states (Karvonen and Sundelius 1987, Held 2002, Keohane 2003) and not least due to increasing use of militarily-supported humanitarian interventions in recent decades (Ku and Jacobson 2002).

The European Union as an international actor faces a number of specific challenges related to democratic accountability. As Lord (2005) observes, there is a high degree of heterogeneity in the arrangements providing for accountability of the EU's external action. These vary across different external policies including aid, trade, CFSP and enlargement, as well as across modes of accountability and levels of governance, where the European Parliament, national parliaments and national public administrations all provide for different standards, procedures and channels of accountability. Brussels-based decision-making in CFSP and ESDP has been involving the emergence of numerous informal diplomatic coordination mechanisms by and large outside the public view (Barbé 2004, Juncos and Pomorska 2006, Duke and Vanhoonacker 2006, Stie 2008).

In this context, the proposals to establish the EEAS in the Constitutional Convention and later in the Lisbon Treaty were guided by a debate among practitioners, politicians and academics as to what the new service should look like, what administrative arrangements should be put in place, what should be its functions and staff composition, how should the staff be trained and how should the service be financed. A bit less pronounced in the debates was the issue of accountability, political control and scrutiny by citizens. The currently proposed model of politico-administrative arrangements for the EEAS – combining staff from the Commission's external relations DGs and Delegations, relevant units of the Council Secretariat and member state diplomatic services – presents a number of challenges related to democratic accountability. This was recognized in the Report to the European Parliament's Committee on Constitutional Matters in February 2005, which pointed out that,

> "the resulting structure, an entirely new independent bureaucracy, would occupy the centre ground between the Council and the Commission. An independent 'superadministration' of that kind would take on an uncontrollable life of its own, unduly raise the status of the Foreign Minister, even in relation to the Commission President, and relegate the Commission to the rank of an 'internal market secretariat'."[7]

To remedy this, the Draft Report proposed a number of arrangements ensuring accountability. First, the EEAS was to be fully incorporated within the Commission's staff structure for logistical, administrative and budgetary reasons, but also and primarily "to ensure that no organisationally independent body or agency is set up largely out of reach of political control" (pt. 5a). Second, the EEAS staff manning 'Union embassies' would be taking instructions

from the Union Foreign Minister[8], but would administratively belong to the Commission staff (pt. 5e). And third, as the EEAS staff in Union embassies in third countries would be (among other tasks) providing logistical and administrative support to all EU institutions, "heads of embassies should be accountable to the parliamentary committees concerned and required to go through an appropriate hearing procedure before they are appointed" (pt. 6). Obviously, the first two aspects are primarily concerning administrative accountability in Bovens' sense, while the third aspect aims at introducing a degree of political accountability. Given the fact that the Commission as a body is responsible to the European Parliament (see e.g. art 17 TEU – L), one might also argue that placing the EEAS under the Commission would also ensure some degree of political accountability.

However, in their *Joint Progress Report* from June 2005[9], the High Representative for CFSP Solana and European Commission President Barroso dismissed the idea of localizing the service in the Commission. Instead, they described the EEAS as a service of a "sui generis nature" (pt. 6), working under the authority of the Foreign Minister and with close links to both the Council and Commission (see also Duke 2009, 217). Apparently, the Joint Progress Report did not ameliorate the dangers of the EEAS developing into an 'uncontrollable superadministration', which the above mentioned report by the European Parliament pointed to. On the contrary, the politico-administrative structure and institutional location of the EEAS discussed in the Joint Progress Report and – in a vaguer way – also being proposed in the Lisbon Treaty, promises to develop just what the European Parliament was criticizing in its Draft Report from February 2005. The Joint Progress Report was primarily concerned with efficiency and ensuring cost-effectiveness in the operations of the EEAS. The importance of the European Parliament is mentioned as being on the rise and this is then used as an argument for the need to establish a specialized unit within the EEAS to manage relations to the EP (pt. 17). There is, however, more or less no mention about the need to ensure democratic and/or other kinds of accountability of the EEAS.

A possible inroad for the European Parliament to set up administrative accountability relations with the EEAS can be found in relation to the issue of how the EEAS is to be financed. As the Service is to be financed from the EU's budget, the European Parliament noted in 2007 "with satisfaction" the strengthening of its budgetary powers "over all spending, including the EEAS, giving Parliament parity with the Council".[10] In a 2008 Draft Report, the European Parliament also expresses its intention to "fully exercise its budgetary powers in relation to the setting-up of the EEAS".[11] While the European Parliament is interested in increasing its leverage over the EEAS, it is not clear that the Council Secretariat, the Commission or the foreign affairs administrations of member states would consider this aspect a primary concern in the formation of the Service. Indeed, as the October 2009 Presidency report to the European Council stated, the High Representative is to "consult" the European Parliament on the main aspects and the basic choices of the CFSP/CDSP and the EEAS is to set up close working relations with the European Parliament.[12] We are still to see the practical application of the 'consultation' mechanisms, but this seems short of the kind of

democratic scrutiny that foreign ministries are normally subject to in democratic societies. The limits of parliamentary scrutiny were also made clear in the January 2010 hearing of High Representative Ashton in the European Parliament, where she stated that she opposed US Senate-style hearings of EU Special Representatives and ambassadors to be appointed to leading posts of the emerging EEAS.[13]

This reserved attitude towards democratic scrutiny is problematic for at least two reasons. Firstly, the EEAS and its single geographic desks are to "play a leading role in the strategic decision-making" regarding the European Neighborhood and Partnership Instrument, the Development Cooperation Instrument, the European Instrument for Democracy and Human Rights and other well-funded external policy instruments.[14] This increasing leverage of the EEAS in the external policy decision-making calls for enhanced mechanisms for public scrutiny by EU citizens and possibly also by those affected by the EU's external policy instruments. Secondly, adopting Scharpf's (2006, 16) arguments, if the EU is to be considered a democratic and legitimate foreign policy actor, there needs to be at least some chain of *ex post* political accountability through which voters could sanction policy choices and also conditions for *ex ante* discussions of salient policy choices (see also Stie 2008, Stie – this special issue). Besides the need for such arrangements in relations between the EEAS and the EU citizens, the realm of the EEAS' operation – EU's external relations – raises a set of additional legitimation issues. As Lord (2005, 114-115) observes, there is, first, a need to justify foreign policies just as much to outsiders as to domestic audiences. Second, foreign affairs including issues of war, peace and human rights in the international system are also internal values with effects in the domestic political game as they often concern scarce resources that are to be used on projects abroad. Third, polities without well-established domestic legitimacy are highly susceptible to failure sparked off by external stimuli of international crises. Hence, calling for democratic accountability in the EEAS is not only a fashionable demand driven by an idealistic attempt to insert democratic control mechanisms into an area where they have traditionally been rather weak, but, in fact, a rather realist attempt to establish a key element in the sustainability of the EU's external actorness.

After reviewing the arguments in the debate on the formation of the EEAS and pointing out the rather mediocre focus on issues of democratic accountability, I now turn to the question of how democratic accountability could be developed in the EEAS.

3.   What democratic accountability for the EEAS?

In thinking about establishment of procedures for democratic accountability in the EEAS we face a dual challenge. First, there is a need to determine, to whom and what kind of accountability relations should be established. In other words, which accountability forums are relevant for the EEAS? The possibilities include, for instance, citizens in the member states, parliamentary assemblies in the member states, committees of the European

Parliament, EU-level audit bodies, EU-institutions, the High Representative, civil society actors and, indeed, constituencies in third states. Second, when thinking about democratic accountability in the EU context, the issue arises what exactly does one mean with democracy. Where and how is democracy embedded in the EU? In what follows, I will first address the latter challenge and briefly discuss the need for reconstituting democracy in the EU context following Eriksen and Fossum (2007). I will then suggest three corresponding scenarios of how democratic accountability could be constituted in the EEAS.

In their thinking about democracy in the EU context, Eriksen and Fossum (ibid.) start out by arguing that democracy is a contested concept. This rests on two core propositions (ibid, p. 7). First, they argue that there is a need to distinguish between reasons for political orders and forms of institutionalization. Based on this they see democracy both as a *legitimation principle* and as an *organizational form*, and propose that there may be several possible organizational forms of democracy to achieve democracy as a principle of legitimate rule. Differences between various forms of democracy – direct (participatory) and indirect (representative, parliamentary) – that have developed in democratic societies support the need to distinguish between the two dimensions of democracy as a concept. Second, they challenge the modern notion of representative democracy by arguing that a) citizens are never present to make the decisions, and b) the counting of votes may help in reaching decisions, but "does not test the quality of the preferences" (ibid.). In other words, while representative democracy allows for effective decision making, it is not sure that it also provides for good and just decisions.[15] From this follows their argument that for a modern political order to be legitimate, it has to reconcile the need for rational decision-making and the need for proper representation of affected interests.

In an effort to sort through the analytical conundrum and using their critique of modern forms of representative democracy as their point of departure, Eriksen and Fossum (2007) suggest three ideal typical models that can serve as heuristic devices for thinking about how democracy can be reconstituted in the EU-setting: 1) delegated democracy, 2) federal democracy, and 3) cosmopolitan democracy. Each of these models would support a different set of norms and procedures for ensuring accountability.[16]

Before moving on to discussing democratic accountability in the EEAS, I should also mention that there are numerous additional challenges in the preparations of the EEAS related to the composition of the service, institutional anchorage, career-paths and human resources strategies, actual functions, training and not least financing (Bruter 1999, Monar 2001, Duke 2002, Maurer and Reichel 2004, Grevi and Cameron 2005, Hocking and Spence 2005, Bátora 2005, 2008b, Spence 2006, 2009, Missiroli et al. 2007, Avery 2008, Crowe 2008, Hocking and Bátora 2009). Various suggestions have been made as to what parts of the respective administrative apparatus from the Commission and the Council could be included and how (see for instance the discussion of the 'minimalist' and 'maximalist' models of the EEAS discussed by Duke 2009). The focus of the current article is, however, on the arrangements enabling democratic accountability of the EEAS and on the broader questions relating to what

should constitute the accountability forum for the EEAS and how various forms of accountability may be established. Here, the three models of EU-democracy discussed above would promote different scenarios.

3.1 Scenario 1: EEAS as a support agency of member state diplomacy

Within this scenario, foreign policy of the EU would remain strongly intergovernmental. The key actors would be national foreign ministries and their respective diplomatic networks around the world. Democratic accountability of foreign policies would be ensured through standard (albeit perhaps traditionally relatively weak) democratic control mechanisms in the EU member states. Coming back to Bovens' conceptualization, the EEAS headed by the High Representative would be the actor to be held accountable. The accountability forum for the High Representative and the EEAS would consist of parliamentary assemblies of the member states and the Council of the EU. This would imply a situation in which the parliamentary assemblies (possibly the respective foreign affairs committees) of member states would have a right to be informed and consulted on actions of the High Representative and the EEAS ex post if not always ex ante.[17] Compared to the current situation, in which the High Representative and the EEAS are held politically accountable by the Foreign Affairs Council, an additional layer of political control consisting of the foreign affairs committees of 27 parliamentary assemblies of member states would be added.

In theoretical terms, such a networking of foreign affairs committees of member state parliaments with the aim of democratic control of EU foreign policy conduct might contribute to the formation of a *parliamentary field* (cf. Crum and Fossum 2009) in the sector of CFSP/CDSP. In a practical sense, a system like that would have a number of implications for various forms of accountability. First, the political accountability of EEAS would be fragmented within the EU. Political accountability of the High Representative and the EEAS would hence be *horizontally contested* among the member states. Such a contested political accountability would then create problems for the ability of the High Representative and the EEAS to act effectively, as decision-making in the Foreign Affairs Council, upon which it would depend, would often be deadlocked. The situation in which some member states decided not to recognize Kosovo's independence is an example of a situation in which the EEAS would have problems acting in relation to the newly created political entity and the EU's diplomatic representation there will continue via special arrangements such as the "European Commission's Liaison Office to Kosovo".[18] International crisis situations, in which actions need to be taken promptly, might be even more problematic here and democratic control of EU foreign policy may simply be sidelined.

Administrative accountability of the EEAS within this model would be directed towards the High Representative and national audit bodies, which might take turns to evaluate the performance of the EEAS. EU-level audit bodies (e.g. European Court of Auditors) would serve as an alternative accountability forum. Legal accountability would rest with the ECJ (Civil Service Tribunal) and/or national legal institutions in the member states. Ensuring

professional accountability would be somewhat challenging as the EEAS would not be in the position to play the role of a 'standard' national foreign service. Instead, diplomatic services of international organizations such as the UN and their professional standards might be the benchmark here. Finally, social accountability would also be fragmented into multiple national societal forums holding the Service accountable. In general, all types of accountability would in this model be horizontally contested among the constituencies of the EU member states.

3.2 Scenario 2: EEAS as a federal foreign service of the EU

This model would imply the formation of the EEAS as a federal foreign service more or less reproducing structures and practices of foreign services of countries like Canada or Germany. Here, the primary accountability forum would be the European Parliament and its Committees dealing with external affairs portfolios. The European Parliament would have the right to be informed and consulted ex ante and ex post on actions decided in the Foreign Affairs Council and conducted by the High Representative and the EEAS. It would have a right to question the High Representative and senior EEAS officials such as Special Representatives and ambassadors, and judge the appropriateness of the steps taken in the implementation of policies. Administrative accountability would be ensured by EU-level audit bodies and focused on the High Representative, whose role in such a constellation would be substantially stronger than in Scenario 1. As this model would more or less closely reproduce nation state practice in organizing the diplomatic apparatus, the global professional community of diplomats and the organizational field of national foreign services would play the accountability forum for ensuring EEAS' professional accountability. The forum for social accountability would be an EU-wide group of societal stakeholders.

This federalized model would have two further implications challenging democratic accountability of the EEAS. First, as the experience of federal entities such as Canada indicates, there may be differences between legitimacy of foreign policy at the federal level and at the level of units constituting the federation.[19] In the EU context and more specifically in relation to the EEAS, this implies that while democratic accountability provisions may work in the relations between the EEAS represented by the High Representative and the European Parliament, legitimacy of decisions and policy processes may be contested by the parliamentary assemblies of the member states. This would mean that democratic accountability of the EEAS in the federalized model might be *vertically contested*.

Second, as the Service would replicate the nation state practices of organizing the diplomatic apparatus along with the standard procedures for parliamentary oversight, it would also reproduce the standard state-like expectations on the limits of the latter. This would then mean that the High Representative and the EEAS would be "only" as democratically accountable as any other foreign service. Given the currently low levels of public scrutiny of 'Brusselized' decision-making in the realm of CFSP and CSDP (Barbé 2004, Juncos and Pomorska 2006, Stie 2008) this might be considered a positive achievement. However, if the

EU foreign policies that are to be promoted and represented by the EEAS, aspire to promote a normative democratizing agenda transposing the EU's experience in organizing political governance beyond the state to the rest of the world, copying models of democratic accountability in nation states will not be sufficient. The EEAS, as a foreign service with a transformative democratic foreign policy agenda, would also need to introduce procedures ensuring democratic accountability in ways that would provide legitimation for such transformative foreign policy endeavors.

3.3 Scenario 3: EEAS as a cosmopolitan normative entrepreneur

In this model, the EEAS would not only serve in support of EU-institutions and member state governments, but would in fact serve the EU's foreign policy principles.

Suggesting to build the EEAS on 'human security principles', Mary Martin (2009) argues that the service should not copy traditional models of organizing diplomacy and should instead "change its orientation away from primarily elite contacts in favour of developing multilevel channels of communication which allow ordinary citizens access to the EU and the values it represents" (Martin 2009). This would also mean openness to cooperation to a broad spectre of civil society organizations which would be regularly involved in foreign policy delivery. In third countries, dialogues with civil society actors would be institutionalized and they would be seen as equal partners to the High Representative and the EEAS as governments (ibid. p.10). Within the EU, civil society platforms such as 'Human Rights and Democracy Network' and 'European Peacebuilding and Liaison Office' have already in December 2008 voiced their expectations of the EEAS calling for standardization of open and transparent decision-making and engagement of civil society actors (see *Civil Society Expectations…*).

In this scenario, the accountability forum would consist of a multitude of actors both inside and outside the EU upon whom the foreign policies of the EU have an impact (see also Sjursen 2007, Stie 2008). This would involve the European Parliament, national parliamentary assemblies of member states, civil society organizations and citizen groupings in the EU and, indeed, parliamentary assemblies, civil society organizations and civic groupings in third countries including sub-state actors, religious groupings etc. Obviously, given such a multi-actor constellation, the nature of the accountability forum of the EEAS would be shifting in relation to particular foreign policy processes and decisions. Political legitimacy and accountability of the EEAS would here be both *externally contested*. A key administrative and organizational challenge would be to ensure that the actors constituting the accountability forum would be able to question the High Representative and the EEAS, find ways how the High Representative and the EEAS would inform of its actions, and finally, of how the accountability forum would be able to judge and possibly sanction the High Representative and the EEAS. The High Representative and the EEAS would need to be involved in a continuous process of justifying its actions not only to Parliaments but also to other public constituencies and interest groups both inside and outside the EU. One of the possibilities worth exploring here would be online consultations ('eDiscussions') in line with

those conducted by the Canadian Department of Foreign Affairs and International Trade.[20] These kinds of approaches might enable greater social accountability of the EEAS. The challenge would, obviously, be the need to accommodate a plethora of views and ideas from actors from inside and outside the EU.

In terms of legal accountability, this would involve legal supervision bodies of the European Court of Auditors and ECJ's Civil Service Tribunal. As in the other two scenarios, administrative accountability in this model would be based on the procedures of the respective institutional anchoring of the EEAS and depending on the status and rules the Service would get. Several challenges would be associated with professional accountability. An EEAS open to extensive consultation with transnational NGOs, entertaining by and large a non-diplomatic working style and promoting not only interests, but also a system transformative meta-agenda would struggle in gaining recognition from the professional peers constituted by national diplomatic services.[21] This, in turn, might decrease the effectiveness of the EEAS as a foreign service. But it might also make it a carrier of alternative practice frames (cf. Morrill forthcoming) and thereby an innovator of the diplomatic field. As for social accountability, the challenge here would be issue of whether effective sanctions by societal actors could be imposed on the EEAS. One possibility would be normative pressure in the form of media-campaigns and networks of actors naming and shaming the High Representative and the EEAS for particular actions. Legitimacy of such activities would always be challenged and that, of course, would render social accountability fairly illusive. Moreover, for this scenario to be feasible, a number of other practical issues would need to be resolved. This would include, for instance, the issue of how the shifting constellations of parliamentary and non-state actors representing the issue-related accountability forums would be organized, how legitimate the participants of these accountability forums would be, who would select them and how, how their scrutiny activities would be organized in practice etc. Table 1 summarized the three scenarios.

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Table 1: Three scenarios of democratic accountability in the EEAS

Scenario of EEAS / Democratic Accountability	EEAS as a support agency of member state diplomacy	EEAS as a federal foreign service of the EU	EEAS as a cosmopolitan normative entrepreneur
Accountability forum	Parliamentary assemblies of member states (foreign affairs committees); member state governments meeting in Council	European Parliament and its committees	Parliamentary assemblies and civic groups affected by EU foreign policies inside and outside the EU
Mechanisms	Information, questions, and sanctions by nat.parliaments, Foreign Affairs Council	Information, questions and sanctions by EP	Information, questions and (normative) sanctions by multiple global constituencies
Contestation	horizontal by MS governments and parliaments	vertical by MS governments and parliaments	External by multiple constituencies affected by EU action

4. Conclusion

In the context of the debate on the formation of the EEAS, democratic accountability has not been a much-discussed theme. This paper has sought to map the state of the debate regarding this issue and suggests a set of initial ideas laying a framework for further thinking about the possibilities of introducing democratic accountability into the EEAS. Given the fact that the EEAS is to be a foreign service of the EU as a non-state entity incorporating states, at least two questions arise regarding democratic accountability of the Service. First, what would be appropriate accountability forums for the EEAS and, second, what does *democratic* accountability mean in the context of EU-level institutions?

The paper has described three models of EU-democracy following Eriksen and Fossum (2007) and, based on these, three scenarios of developing arrangements for democratic accountability in the EEAS were suggested. Each of the scenarios would represent a change compared to the current situation in which the High Representative leading the EEAS is held politically accountable by the Foreign Affairs Council and the General Affairs Council. In the first scenario – the EEAS as a support agency for member state diplomacy – the High Representative and the EEAS would be scrutinized by 27 parliamentary assemblies (foreign affairs committees) of the EU member states. The functional need for coordination and networking of such multiple control-mechanisms would possibly lead to the formation of an EU-wide parliamentary field in the realm of CFSP and CSDP. In the second scenario – the EEAS as a federal foreign service of the EU – policy conduct by the High Representative and the EEAS would be scrutinized by the European Parliament. Finally, in the third scenario – the EEAS as a cosmopolitan normative entrepreneur – the High Represenative and the Service would underlie scrutiny by a multitude of civic groups and parliamentary assemblies inside and outside the EU. Here, the democratic accountability of the Service would be internally (intra-EU) and externally contested by affected parties claiming their right to be consulted and engaged in decision-making. Hence, no matter what constellation the Service would develop into, its attempts to maintain a degree of democratic accountability will be contested.

In addition to this, introducing democratic accountability in the EEAS will be a challenge also due to its nature as a foreign service. As a new organization entering a well-institutionalized field of foreign services, it will be faced with a dual kind of pressure. On the one hand, it will seek to gain legitimacy by introducing standard ways of organizing foreign affairs administration. This would mean low focus on democratic accountability. On the other hand, it will seek to gain legitimacy as a promoter of a democratic system-transformative meta-agenda in the EU foreign policy, which will require a heightened focus on democratic accountability and innovative politico-administrative arrangements for achieving it. This dual possibility of gaining legitimacy through adaptation or through radical innovation represents quite different paths. The question is which of these paths is more appropriate for the EEAS.

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Endnotes

[1] The Lisbon Treaty itself remains vague when it comes to the actual arrangements that are to be put in place. It does not get more specific than stating that "The organization and the functioning of the service shall be established by a decision of the Council, acting on a proposal of the High Representative after consulting the European Parliament and after obtaining the consent of the Commission" (Art 27(3)).

[2] This was not always the case. In ancient Greek cities, for instance, diplomatic missions and their instructions were discussed openly by citizen assemblies. Upon arrival in the recipient city state, diplomatic envoys would make a public statement to spell out the messages they were carrying in the local citizen assembly (Hamilton and Langhorne 2005). Low focus on public scrutiny as a systemic feature of diplomacy was only gradually institutionalized along with the rise of the modern diplomatic order based on states (Bátora 2008a).

[3] The Lisbon Treaty (Art 10A TEU-L) formulates it in the following way: "The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world…"

[4] For this concept see March and Olsen (1984, 1989).

[5] Combined EU assistance to Kosovo has amounted to approximately EUR 2 billion at the time of writing. See the web-site of the European Commission Liaison Office to Kosovo at http://www.delprn.ec.europa.eu/?cid=2,110, accessed on March 16, 2010).

[6] Lord (2005:114) specifies that such consequences may include loss of office, powers, resources, or reputation.

[7] *Draft Report on the institutional aspects of setting up a 'European External Action Service'* (2004/2207 (INI), Committee on Constitutional Affairs, European Parliament, February 22, 2005 (Rapporteur: Elmar Brok).

[8] In the Lisbon Treaty, this title was changed to the High Representative of the Union for Foreign Affairs and Security Policy.

[9] *European External Action Service. Joint Progress Report to the European Council by the Secretary General / High Representative and the Commission.* 9956/05, Council of the European Union, Brussels, June 9, 2005

[10] *Draft Report from the Council to the European Parliament on the Main Aspects and Choices of the Common Foreign and Security Policy.* Committee on Foreign Affairs, 2007/2219(INI), (Rapporteur: Jacek Saryusz-Wolski), pt. 49 (cf Duke 2009, 229).

[11] *Draft Report on the Impact of the Treaty of Lisbon on the Development of the Institutional Balance of the European Union.* Committee on Constitutional Affairs, 2008/2073(INI), Rapporteur: Jean-Luc Dehaene, pt. 56 (cf Duke 2009, 230).

[12] *Presidency Report to the European Council on the European External Action Service.* Council of the European Union, 14930/09, POLGEN 163, Brussels, October 23, 2009, p. 5, pt. 15

[13] "Ashton under fire at EU confirmation hearing", *Financial Times*, January 11, 2010 (see http://www.ft.com/cms/s/0/3f05759c-fede-11de-a677-00144feab49a.html)

[14] *Presidency Report to the European Council on the European External Action Service.* Council of the European Union, 14930/09, POLGEN 163, Brussels, October 23, 2009, p. 4, pt. 9

[15] It needs to be noted, of course, that participatory democracy also presents various kinds of challenges to justice and goodness of political decisions (see Dahl 1989).

[16] Obviously, the heuristic models represent ideal type configurations and one cannot expect to find empirical support for any of them in their pure form. They are here used as heuristic devices to organize thinking about alternative constellations of democracy in the EU.

[17] The right to be informed ex ante might enhance democratic scrutiny, but usually, for the sake of efficiency, foreign policy makers usually have delegated powers to make decisions. They are then held to account by the parliamentary assembly ex post.

[18] This challenge became visible in the Slovak position on the Kosovo independence issue. The Slovak Parliament passed a resolution in 2007 calling on the Slovak government to not take any action that would lead to "full independence" of Kosovo without the consent of Serbia (it needs to be noted that, as in the case of Spain's non-recognition of Kosovo, the parliamentary resolution was passed for domestic political reasons). The Slovak government hence took on a position against the vast majority of EU member states and also against the recommendation by Solana and the Council Secretariat, and did not recognize Kosovo. What the government did, however, was to officially support the EULEX Mission in Kosovo, which de facto keeps on establishing independent governance structures in Kosovo. This schizophrenic position of the Slovak government indicates several things. It is an indicator of the strength of the peer pressure within the CFSP realm – consistency in not recognizing Kosovo would call for not supporting the EULEX mission. Also, it is an indicator of the strong albeit declaratory power of national parliaments in member states when a challenging foreign policy issue comes up. If national parliamentary assemblies are to remain the accountability forum for the High Representative and the EEAS, this situation might be taken as an indicator of how the actions of the HR and the EEAS will be contested horizontally from the member state constituencies.

[19] The NAFTA agreement, for instance, was negotiated by the Canadian federal government, but not one of the Canadian provinces had signed it. Canada's compliance with NAFTA is hence left at the mercy of provincial parliaments (Vengroff and Rich 2006, 111-112). Moreover, for lack of legitimacy, Canadian foreign policy needs to be "sold" to the Quebecois through federally sponsored public information programs such as 'la diplomatie ouverte' run by the Department of Foreign Affairs and

International Trade. The aim of the program was to raise awareness of Canada's international achievements and thereby increase levels of identification among young Quebecois with Canada (see Axworthy 2003).

[20] Each of the 'eDiscussions' takes about 2 months and addresses a broad topic such as 'dealing with failed and fragile states'. The point is to have citizens (be they Canadians or not) to express their opinions about what steps Canada should take in the given area of foreign policy. The Department then produces a synopsis of the inputs, circulates it to relevant decision-makers within its structure and then, following their feedback, produces a departmental response, which is posted on the site for the public view. In this way, the Canadian government justifies its policies through public reason-giving. Although participation in the eDiscussion tends to be relatively low, the public reason-giving has a value as a mechanism of generating a sense of obligation for the government to act in line with the statements provided in response to issues, comments and suggestions raised by the general public. It might be argued that this practice strengthens social accountability of the Canadian Department of Foreign Affairs and International Trade. For an analysis see Bátora (2006).

[21] These problems may be illustrated by British foreign secretary Jack Straw's remark regarding the External Service of the EC. As he opined in 2004, "you find all sorts of odd bods running these sorts of odd offices. … There are a lot of these people abroad and it is not entirely clear what they are doing. … All sorts of people are referred to as ambassadors." See "Straw pokes fun at EU 'odd bods'", *The Guardian*, May 26, 2004 (http://www.guardian.co.uk/politics/2004/may/26/uk.eu)