
Serving the citizens? Consular role of the EEAS grows in small steps

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BACKGROUND

The consular role of the European External Action Service (EEAS) has emerged as one of the most contested issues in the debate on the review of the Service, to be presented by the High Representative of the EU for Foreign Affairs and Security Policy, Catherine Ashton, in mid-2013.

The EEAS, operational for just over two years, is commonly expected to serve the EU institutions and member states in its fields of competence. A more controversial issue is the extent to which it should also serve EU citizens by taking on certain consular tasks to assist citizens abroad.

In the debate, consular protection has often been presented as an important instrument for bringing the EEAS closer to the public. This paper argues, however, that it is more opportune to focus on pragmatic reasons and means to strengthen the consular functions of the EEAS.

Soon twenty years will have passed since the Maastricht Treaty (Art. 8 c) obliged all member states to provide consular assistance on equal terms to all 'unrepresented' EU citizens abroad. Since then, an EU citizen residing in a third country in which his/her own member state is not represented has been entitled to receive protection from any fellow member state, under the same conditions as nationals of that state. This is an important practical expression of European unity, but implementation of this provision has not always been smooth, and many Europeans are not even aware of their right to turn to other EU countries when in trouble abroad.

The Lisbon Treaty further strengthened the EU's role in this field by conferring a new general objective on the Union, namely to 'contribute to the protection of its

citizens' in the wider world (Art. 3(5) TEU). A Council Directive on consular protection for citizens of the Union abroad is currently being negotiated in a bid to clarify and streamline implementation of EU citizens' right to receive equal protection.

The number of 'unrepresented' citizens abroad who may one day need the EU's help is growing, as mobility is increasing at a time when member states are simultaneously cutting back their consular networks due to austerity measures. And when faced with major crises, such as the 2011 tsunami in Japan or the conflict in Syria, even the largest member states with extensive diplomatic networks have found it difficult to cope with consular assistance on their own.

Hence there is a strong rationale for increased burden-sharing and pooling of resources at EU level to help member states manage their consular tasks.

The (potential) role of the EEAS in providing consular protection has not been clearly defined. The Council Decision establishing the EEAS (Art. 5 (10)) merely provides that the EU Delegations shall support member states upon request by the latter and on a resource-neutral basis, which implies a minimal complementary function, in line with the modest overall expectations of some member states towards the Service.

The question of moving beyond complementarity and tasking the EEAS with providing consular protection and representation has been divisive and sensitive, raising questions as to the political will of some member states to further empower the EEAS and strengthen the meaning of European citizenship.

Some member states are known to have their reservations about deepening integration in areas seen to lie at the heart of national sovereignty. The ability to assist citizens abroad can be seen as a symbol of statehood and a core task of the state towards the

citizens, whereas many member states are wary of assigning further state-like characteristics to the EU. Questions related to citizenship and sovereignty lie at the heart of the debate on consular assistance, at times dimming practical considerations.

STATE OF PLAY

Getting the priorities right

Several member states and the European Parliament are calling for a stronger consular role for the EEAS, corresponding to the EU's new post-Lisbon powers, but there are a variety of views on how far one should go regarding the tasks and responsibilities of the Union in this field.

Some consular tasks of the EEAS are already being gradually strengthened, as the Service and its network of 141 EU Delegations abroad is building up its coordinating role with respect to the national diplomacies of the member states. First and foremost, the EEAS's consular coordination role in crisis situations is being enhanced with the broad support of the member states.

There are some early positive experiences of coordination and support provided by EU delegations in crisis situations. The delegations have assisted with transportation and communication, helping to evacuate EU citizens and to provide emergency assistance. For example, the web platform for exchanging consular information, Consular Online (CoOL), proved very useful during the civil war in Libya in 2011. In 2012, when most member states closed their embassies in Syria, the EU Delegation in Damascus stayed open, hosting national diplomats, assisting with evacuations and maintaining a crucial local presence.

France in particular is strongly supporting an enhanced crisis coordination role for the EEAS. With the largest diplomatic network of any EU member state, it is currently carrying a relatively heavy burden in terms of assisting non-represented EU citizens across the world. It has most frequently been operating as a 'Lead State' ensuring and coordinating consular assistance to EU citizens in times of crisis. It would like to make the EEAS responsible for coordinating consular cooperation between member states in third countries. It is also calling for a compensation mechanism to regulate financial reimbursement in cases of crisis assistance provided by one member state to citizens of fellow member states. (This is one of the issues to be addressed in the above mentioned Council Directive on consular protection for EU citizens abroad.)

The EEAS itself is not keen to move beyond consular crisis coordination. It is not equipped to do so, and

with its current limited resources, the priorities of the EEAS and EU Delegations need to be carefully weighed. Political reporting and representation, coordination of member states' positions and actions, coordination with the other EU institutions, and strengthening policy entrepreneurship have to be at the top of the list.

Consular protection is not among the top priorities. Without additional resources, which are not to be expected in the near future, carrying out consular tasks might be to the detriment of substantive foreign policy work. At present, the budget of the EEAS pales in comparison to those of the largest EU member states (in 2012, its administrative budget, 489 million euros, was about half the size of the administrative budget of Germany's Ministry of Foreign Affairs). The Service's modest resources and the strict objection of most member states to increasing its budget are one of the main obstacles to tasking the EEAS with consular functions.

Diverse positions, different motivations

Wishing to go beyond crisis coordination, the European Parliament sees the EU's ability to provide consular assistance as a way to enhance the meaning of EU citizenship and bring the EEAS closer to the public.

Several mid-sized and smaller member states are also keen to transfer some consular tasks to the EEAS, but for a different reason, namely to ease the burden of national foreign services and make savings. The Netherlands has been most vocal in insisting that citizens expect value for the money that they are spending on the EEAS, and hence the Service should take on some consular tasks.

Some other member states have taken a negative position above all because serving citizens is regarded as a core task of the state, with important political and legal ramifications. They have also rightly noted that the EEAS lacks the necessary skills and resources – yet this is a secondary point as long as one opposes the creation of such skills and resources. A further obstacle is the difficulty of coordinating the divergent regulatory frameworks of the member states.

The UK has been the principal opponent of any transfer of competences to the EEAS, be it consular or other matters. The EU Select Committee of the UK

Parliament, however, suggested in a recent report that the EEAS might develop some consular functions in accordance with the needs of interested smaller member states, whereas those countries that wish to use the services would cover the related costs. Such an approach might offer a way forward and would enable smaller member states to harness more effectively the potential added value of the EEAS.

Reaching out to the public

So far, the EEAS is practically unknown among the broader public. Fostering direct links between the EEAS and EU citizens is an important goal, but one should not overestimate the potential of consular tasks, which are mostly technocratic and low profile, to make a major difference.

More importantly, a consular role of the EEAS can only contribute to boosting the legitimacy of the EU if it is introduced *after* the relevant resources and skills are in place. The launch of the EEAS without advance planning, and the subsequent chaotic transition period and member states' extensive criticism of the new body, highlighted the detrimental – even if temporary – effect of assigning the EU with new responsibilities in haste.

The EU would be in danger of suffering a huge blow to its reputation if a lack of adequate resources to carry out consular tasks was revealed in an emergency situation, with potentially devastating costs. It is crucial to invest in the personnel and training that the EEAS needs in order to take on responsibilities that ultimately concern matters of life and death for citizens.

Building up the Service's consular capacities will not happen overnight. In the meantime, other ways must be found to make the EEAS more visible and more widely known among citizens.

It is also worth noting that several member states attach special political importance to providing consular services for national diasporas abroad as a way to maintain national loyalty and identity. The emphasis of the European Parliament on strengthening the meaning of EU citizenship by beefing up the consular responsibilities of the Union does not go down well among some national authorities.

EU consular services, if built up in a solid manner, are a huge potential gain for citizens, but may appear as a threat to states that could be sidelined by new direct connections between the EU and citizens. Moreover, national foreign services, whose relative position has been on the decline anyway, would lose an important part of their *raison d'être*.

It might be more productive to focus the debate on the pragmatic considerations and gains of burden-sharing. This is how European integration has

historically advanced, through concrete achievements, as envisioned by the founding fathers.

Austerity necessitates pooling and sharing

While most member states object to the idea of increasing the budget of the EEAS, they are forced to look at ways of burden-sharing and pooling resources in order to manage the tasks of national foreign services, including the growing amount of consular work. With few exceptions (notably Germany), the foreign ministries of European countries have faced considerable budget cuts in recent years and foresee further cuts in the near future (see EPC Issue Paper No.73 *The European External Action Service and National Diplomacies* for an overview). Many countries have been forced to reduce their diplomatic presence abroad and close down missions. As a rule, cutting down consulates is preferred over closing embassies due to the relatively less political and economic damage involved. And yet, consular services consume a growing share of national diplomatic resources.

Member states are already engaged in extensive practices of cooperation and burden-sharing in consular matters. There is a web of bilateral cooperation agreements on visa issues among the Schengen countries, and common visa application centres are in operation, for instance in the Democratic Republic of Congo and in Moldova. As the member states look for new cost-effective solutions, the EEAS is one possibility among many, along with enhanced cooperation with partner countries, the use of new communication technologies, and outsourcing certain services such as visa issuance to private companies.

The need for burden-sharing among national diplomacies obviously goes beyond consular issues. The potential gains of more systematic cooperation through co-locations of diplomatic missions and shared reporting and analysis need to be among the issues addressed in the context of the EEAS review. Co-location arrangements between EU Delegations and member states' representations are already in place in Nigeria, Tanzania, Kazakhstan, Ethiopia and Yemen. Even those member states that take the most strictly intergovernmental approaches to common foreign policy, such as the UK and the Czech Republic (the latter, though, is re-assessing its approach after recent change of power), are interested in increasing the number of such arrangements.

Against this background, it seems evident that the main reason for member states' interest in burden-sharing is not principled support for deeper integration, but sheer budgetary pressures. The price-tag of building up and running the consular capabilities of the EEAS needs to be defined and compared to the alternative of relying on national services. Services provided by the EEAS cannot be cost-free, but they can be cost-effective.

PROSPECTS

A fast extension of consular tasks to the EEAS is unlikely and undesirable for both the EEAS and the member states and, as argued above, entails risks for citizens and their trust in the EU.

The road towards a larger consular responsibility of the EEAS should be walked in small steps. The first is to enhance the consular coordination role of the EEAS in crisis situations. As noted above, the EEAS is already advancing here, with the broad support of the member states. With its global network of EU Delegations, the EEAS is well placed to become the hub for information exchange, coordination of evacuations and logistical support in crisis situations.

It could take the leading role in coordinating contingency plans and relevant meetings of the member states. This role can be developed with relatively minor resources, using specialised national diplomats and seconded experts working for the EEAS. It is a rather invisible role that does not challenge the responsibilities of the member states or their bonds to citizens.

As a next step, EU Delegations could offer consular support to 'unrepresented' citizens, i.e. those EU citizens who need help in faraway places where their own state has no representation.

This role is promoted by the European Parliament and would be welcomed by many member states. One could start with pilot projects in locations where most EU member states are not represented. As a matter of fact, there are approximately 30 countries in the world where an EU Delegation exists and only up to three member states have a diplomatic representation, including tourist destinations such as Cape Verde, Fiji and Madagascar.

EU delegations could provide urgent assistance, help those in trouble to get in touch with national officials and facilitate support by the latter. This step

would ease the burden on large member states with the most extensive diplomatic networks. The member states would still continue to serve their citizens in locations where they do have a national diplomatic mission; so the role of the EEAS would not challenge the paradigm of complementarity.

In the longer term, when EU Delegations become more established, there is a strong rationale for assigning them with consular assistance tasks, not only vis-à-vis unrepresented but to all EU citizens. EU Delegations could also start issuing visas to third-country nationals.

Building up such a capacity for the EEAS would require additional resources. However, this would not mean duplication; on the contrary, the burden on member states would be eased by pooling resources.

The potential economies of scale of increased burden-sharing are considerable, but if these are to materialise, a major leap is required in member states' views on the transfer of national competences and resources to EU level.

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