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## Coming to Terms with the 'Legitimacy Crisis' of European Foreign Politics

The European Parliament Pushing  
the Frontiers of Consultation

Elisabeth Wisniewski



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## **Abstract**

Since its early beginnings, the member states of the European Communities have tried to establish a common foreign policy and at the same time were reluctant to implement it. Only the Maastricht Treaty introduced an institutional framework. However, the emerging Common Foreign and Security Policy (CFSP) has been criticized for its lack of democratic legitimacy, since it has been dominated by the member states at the expense of democratic control by the European Parliament (EP). Therefore, it is puzzling that the Lisbon Treaty implemented new powers for the EP in external relations. Why was the Parliament given these new powers? Is it connected to the 'democratic deficit' of foreign relations and therefore a new strategy of the European Union (EU) to enhance legitimacy or is this process a result of inter-institutional dynamics? Are these mechanisms relevant for the integration process in general?

Derived from New Institutionalism, this paper argues that the European Parliament was granted new powers due to its strong democratic profile as well as inter-institutional dynamics within the political system of the European Union. The case study on the new European External Action Service (EEAS) focuses on the consequences of the new provisions of the Treaty. Content analyses of inter-institutional documents on the construction of the EEAS suggest that the increasing recognition of the Parliament as an important policy actor by the other European institutions translated into institutional powers to an even greater extent than intended in the Lisbon Treaty. Hence, the results have important implications for institutional as well as democratization analysis of the EU and International Organizations in general.

## **Keywords**

Democratic Deficit – European External Action Service – European Foreign Politics – European Parliament – External Relations – Informal Power – Legitimacy – New Institutionalism



## Introduction

'An external service for the European Union' (Busse 2010: 2), 'Parliamentarians demand answers' (Handelsblatt 2010: 15), 'The power of the baroness' (Raupp 2010: 8). These were just some of the newspaper headlines that accompanied the negotiations of the European Union (EU) on the institutional setting of the new European External Action Service (EEAS) in 2010. The provisions of the EEAS constitute one of the fundamental changes in European foreign policy introduced by the Treaty of Lisbon (Council 2010a). The Council of the European Union describes the purpose of the EEAS as: 'making the EU's external action more coherent and efficient, thereby, increasing the EU's influence in the world' (ibid.). However, the Council mentioned neither issues of democracy nor legitimacy in the context of this new service, which is in line with the historical development of a European foreign policy. Since the early beginnings of European integration, the member states of the European Communities had tried, and yet were reluctant, to implement a common foreign policy (Wallace 2005: 430). Due to this process, criticism of a 'democratic deficit' arose (Wagner 2007: 1).

There is an ongoing discussion of whether this criticism is relevant for the EU, which is connected to the different perceptions on what the EU is and what it should be. Erik Oddvar Eriksen and John Erik Fossum (2007: 1) established three models in their research: Firstly, if the EU is a tool for economic growth, it should be able to solve common problems. Alternatively, if the Union aims to provide a common identity, it should be a community based on values. Lastly, if the EU is a project for its citizens, it should be a supranational union based on rights (Eriksen and Fossum 2007: 1). Depending on the point of view, different remedies against the democratic deficit apply.<sup>1</sup> Constitutional lawyers as Dieter Grimm argue that a democratic deficit is only present if supranational modes of decision making are employed, whereas intergovernmental procedures prevent a lack of democracy, since the elected national governments are in charge (Grimm 1995: 283-84). However, it is highly questionable whether the strict supranational versus intergovernmental division or the application to the EU of just one of the proposed models still applies for European decision making (Kantner and Liberatore 2006: 371-72). Unlike other international institutions, the EU shows state-like features which prevent a genuine intergovernmental view on EU policy (Born and Hänggi 2004: 5).

Additionally, the multi-level structure of the EU - including local, national and EU actors - gives rise to accountability problems (Wagner 2007: 1). Who is responsible for decisions at the European level is difficult to say, especially in the domain of foreign and security policy. Neither national parliaments nor the European Parliament (EP) have formal possibilities to scrutinize the decision making process (Bono 2004: 177-78), another complaint supporting the democratic deficit thesis. The emerging Common Foreign and Security Policy (CFSP) in particular has been dominated by the member states and the European Commission at the expense of formal influence and democratic control by the European Parliament (Keukeleire and MacNaughtan 2008:

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<sup>1</sup> This paper does not aim at discussing all aspects of the 'democratic deficit'. Please see Chrysochoou (2003) for a general introduction.

93-95; Vanhoonacker 2005: 87). Therefore, it is puzzling that the Lisbon Treaty (2007) implemented new powers for the Parliament in external relations. Why was the European Parliament given these new powers and what are the consequences?

Furthermore, if the division between supranational and intergovernmental modes of decision making is not valid anymore, how is the Parliament making use of its powers beyond formal competences? Does the democratic deficit criticism still apply if the Parliament finds means of informal influence?

This paper will investigate whether the European Parliament was granted its new powers due to a new strategy of the EU to enhance its general legitimacy or if inter-institutional dynamics and constraints within the EU led to the new role for the Parliament. Correspondingly, the two competing hypotheses are as follows:

*Hypothesis 1: Inter-institutional dynamics and constraints within the EU have led to the new role for the Parliament.*

*Hypothesis 2: The Parliament was granted its new powers due to a new strategy of the EU to enhance its general legitimacy and reduce the democratic deficit.*

The new powers of the Parliament will be investigated by analyzing the construction of the new European External Action Service (EEAS). Content analyses of inter-institutional documents suggest that the European Parliament has been recognized as an important actor by the other European institutions. Furthermore, empirical findings of this analysis show that the other EU institutions allow the Parliament to influence negotiations even more than the Lisbon Treaty intended. This process raises questions of institution building and institutional change in general, which will be dealt with in this paper. Theories such as realist and intergovernmental approaches explain institutions by analyzing power structures or rational choice calculation (Andreatta 2005: 25; Keukeleire and MacNaughtan 2008: 330). The European Union has developed beyond the expectations of these approaches (Norheim-Martinsen 2010: 1351) and the concepts can hardly account for normative motivation or unleashed dynamics of the institutional structure. This paper will instead apply approaches of sociological and historical institutional analysis to the empirical case study on the influence of the Parliament on the construction of the External Service, as these approaches seem more appropriate. The results shed light on the changes brought about by the Treaty of Lisbon, conditions for institutional change in general and for the formal and informal role of the European Parliament within the EU in particular, as well as consequences of them.

In the following, a historical overview will contextualize the general setting of the EEAS within European foreign policy as well as the relevant instructions by the Treaty of Lisbon (2007). Next, the theoretical part will summarize the main aspects of New Institutionalism and its relevance for this analysis. The methods section will bridge theory with empirical content analysis of inter-institutional documents. Following this, the content analysis will show that the Parliament is making use of informal powers and how parliamentary influence shaped the EEAS. The conclusion will show that arguments in line with historical and sociological institutionalism are of high relevance for the institution building of the EEAS, while rational choice institutionalism has less explanatory power. Consequently, institutional change

within the European Union might not only be based on cost benefit calculation and therefore, future analysis should not overlook normative motivation.

## History: Towards the EEAS

The project of a common foreign policy has been one of the most controversial topics of the EU. The integration process in this policy field has been characterized by obstacles as well as inconsistencies from the early beginning until today.<sup>2</sup> The agreement on a European Defence Community (EDC) was signed in 1952, which would have led to an army under European authority. However, the treaty was rejected by the French National Assembly, only two years later. Ever since, the integration process has been marked by limited steps towards cooperation (Wallace 2005: 430). The first legal basis was implemented by the Single European Act in 1986. According to this treaty, the member states of the European Communities agreed to discuss issues of common interest in foreign politics but the policy field remained outside official Community procedures. The Maastricht Treaty (1992) introduced the Common Foreign and Security Policy (CFSP) which made the policy field an object of intergovernmental process. Unlike in policy fields where the community method is applied, the influence of the European Parliament was limited to recommendations and questions addressed to the Council (Treaty on European Union 1992: title 5, chapter 2, article 21). Since Maastricht, majority votes of the Council are possible but rarely practiced in CFSP. Hence, a truly European foreign policy has not been implemented, a situation which was not altered by the Treaty of Amsterdam (1999) or the Treaty of Nice (2001).

This constant lack of parliamentary involvement has added to the critique of the democratic deficit (Bono 2004: 177-78; Chryssochoou 2003: 365-74; Vanhoonaeker 2005: 87). Chryssochoou (2003: 370) summarizes that the criticism is not only connected to the weak position of national and the European Parliaments but that non-elected institutions possess too much power. On the one hand, due to the intergovernmental process, the national governments and parliaments are involved; hence, democratic control would be ensured (Grimm 1995: 283-84). On the other hand, the daily decision making within the complex framework of European foreign policy is almost impossible to follow and even on a formal level the control exercised by national institutions is very limited, despite their final say on these issues (Keukeleire and MacNaughtan 2008: 96). This brings us back to the lack of accountability, to what extent are the European institutions - including the member states in the formation of the Council - answerable to the European citizens? Another issue that has mostly been disregarded is whether the analysis of formal competences is sufficient to tackle the democratic deficit.

Despite the formal lack of parliamentary participation, the Parliament organizes its formal powers in other policy fields, such as budgetary control, as well as informal possibilities, such as initiated reports, to maximize its influence (Keukeleire and MacNaughtan 2008: 93-96). In particular, the 'abuse' of budgetary powers to influence decisions on foreign policy has led to intense criticism of the member states and the Council (Keukeleire and MacNaughtan 2008: 95).

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<sup>2</sup> For a general introduction to the integration process of European foreign policy, please see Wallace (2005).

After the Treaty of Lisbon (2007), the influence of the European Parliament on foreign policy remains limited (Dembinski 2010). However, the institutional 'winner' of the treaty is the European Parliament (Maurer 2008: 2). It gained many new powers and its former role was strengthened: the vast majority of EU legislation comes under the procedure for co-decision, where Council and Parliament act as equal partners and the Parliament has veto powers including over the adoption of the annual EU budget (European Parliament n.a.). Concerning external relations, the EP has the final say on international agreements - such as the agreement on SWIFT between the USA and the member states or international trade agreements (Treaty on European Union 1992: title 5, article 218, 6), and on the budget of new external relations institutions, such as the European External Action Service, because this is part of the annual budget.<sup>3</sup>

Keeping in mind the reluctance of the member states to share powers in external relations and considering the established practice of the Parliament of using its formal powers in one policy field to influence another, this process is puzzling: Why was the European Parliament given these new powers by the member states? Is it connected to the democratic deficit of foreign relations and therefore a new strategy of the EU to enhance its legitimacy or is this process a result of inter-institutional dynamics? In order to deal with this puzzle, this paper investigates how the European Parliament is making use of its new powers granted by the Lisbon Treaty to shape external relations. The first big step after implementation of the treaty was the set-up of the new EEAS. The mandate is laid down under article 27 Treaty of the European Union and states,

In fulfilling his mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.

(Treaty of Lisbon 2007: title 5, article 27).

Summing up, shortly after nomination, Catherine Ashton as new High Representative had the task of drafting the structure of the EEAS. Furthermore, the consent of the Commission and consultation with the Parliament were necessary before the Council could adopt the proposal. This leaves no formal competence for the European Parliament. However, the budget of this new institution - being part of the general budget of the EU - has to be approved by the Parliament, hence the budgetary veto remains (European Parliament 2010a). I will later analyze how the member states in the composition of the Council and the High Representative interacted with the Parliament, which will shed light on their motivations. But first, the next part will introduce the theoretical framework of this paper.

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<sup>3</sup> For a detailed overview of the new parliamentary powers and the implications, please see Maurer (2008).



## The new institutionalism(s) in foreign policy research

Without doubt, the European Union is currently the world's most sophisticated institutionalized international organization. It encloses supranational institutions, such as the European Commission, intergovernmental institutions, like the Council, the only directly elected supranational parliament in the world and a growing body of legislation (Pollack 2004: 137). In the late 1980s, the 'institutional turn' of European studies emerged, when scholars started to apply the 'New Institutionalism' to the European integration process. Ever since, there has been a growing amount of studies working with this theory (Pollack 2004: 137-41). However, in the context of European foreign and especially security policy, classical approaches such as realist and intergovernmental theory are applied, because the member states are still the most relevant actors (Norheim-Martinsen 2010: 1351-65). With the Treaty of Lisbon, the member states decided to enhance the powers of the Parliament at their own expense, a behavior that counteracts classical theory (Norheim-Martinsen 2010: 1351). Why was the EP given these new powers? Furthermore, if the division in supranational and intergovernmental modes of decision making is not valid anymore, how is the Parliament making use of its powers beyond formal competences? Does the democratic deficit criticism still apply if the Parliament finds means of informal influence?

This paper will investigate these questions by analyzing the construction of the EEAS, a process of institution-building. At the same time, the EEAS is a matter of institutional change because it changes the European foreign policy institution. Therefore, new institutionalist approaches promise to offer theoretical models to explain this puzzle. However, the application of historical and sociological institutionalism to the particular case of the EEAS will require some minor amendments. This paper does not aim to provide a general overview of the theoretical strands but uses their core assumptions to inform the empirical analysis to be conducted.

In fact, there are multiple institutionalisms which include very distinct sociological, historical and rational choice approaches (Nullmeier 2003: 306). Representatives of the different strands agree that institutions matter in social sciences. The differences are nevertheless striking (Finnemore 1996: 326).

According to *rational choice institutionalism*, institutions are set-up because of individual rational decisions, which are in line with the microeconomic *Homo Oeconomicus*. Despite the heterogeneous approaches within rational choice theory, individual cost-benefit calculation is in the center of analysis (Peters 2005: 50-51). However, rational choice institutionalists are aware of 'bounded rationality', which constrains the cost-benefit calculation by the implemented rules that limit opportunistic behavior due to monitoring the behavior of other relevant actors (Peters 2005: 55). This prevents default or cheating to reach short term gains and therefore, counteracts the dilemma of collective action (Knight 1992: 9-10). Furthermore, transaction costs are reduced since the actors have access to a stable framework for coordination (Hall and Taylor 1996: 943). Institutional change is expected if the existing framework becomes inefficient (Peters 2005: 62).

Regarding the case of the EEAS, motivation of the member states to change the framework of external relations should have been limited to issues of monitoring and

coordination of policy if the existing framework was not able to carry out these tasks anymore. Under the aspect of a new emerging institution, rational choice institutionalism provides weak explanation since preferences are expected to be stable over time (Hall and Taylor 1996: 945). However, the member states decided to enhance the role of the Parliament in foreign policy at their own expense and the case of the EEAS suggests that the Parliament is involved in decision making on the European level of politics beyond its formal role. Arguments limited to monitoring, information and coordination might be a useful starting point regarding the Commission, an institution that is formally obliged to fulfill these tasks,<sup>4</sup> but in the case of the Parliament, these arguments show obvious shortcomings. The member states cannot expect the Parliament to comply with their wishes, as in a simple principal-agent relationship. Furthermore, the rational argument of enhanced efficiency does not apply, since the involvement of more players, hence more need for compromise, tends to lead to less efficiency in policy making. Rational choice institutionalism would neither expect influence of a 'weak' institution such as the Parliament nor issues of legitimacy influencing the decisions of 'powerful' actors (Peters 2005: 51), which are the member states in the case of the EEAS and the institutional reforms of the Treaty of Lisbon. Consequently, this strand of New Institutionalism will not be used for the analysis in this paper.

*Historical institutionalism* adds a time perspective to the rational strand (Pollack 2004: 139-41). The process of societal developments and present phenomena are included in the bounded rational calculation. Douglas North (1990) defines institutions as formal and informal social rules that provide order and orientation in social interaction. The *Homo Oeconomicus* remains the model for actors, but goals can be unstable, environmental perception is subjective and idealist motivation might matter in cost-benefit calculation. Institutional change is initiated by short term cost-benefit maximization of individual actors which leads to changes of the general institutional framework in the long run (North 1990: 8). This can be influenced by path dependency, 'locked-in' and feedback effects, i.e. various unintended consequences (Fioretos 2011: 369). Locked-in describes restrictions placed on actors facing institutions. Within a feedback process, they become aware of the limitations and want to overcome them as soon as better opportunities are available (North 1990:7). However, earlier decisions limit present opportunities (North 1995: 18) and self-reinforce established practices (Pierson 2000: 252), which are described as path dependencies. They can prevent institutional change if the costs of change are higher than the *status quo*, even if the latter has become inefficient (ibid.).

Analyzing the EEAS with historical institutionalism, the center of attention becomes inter-institutional dynamics and constraints within the EU which might have led to the new role of the Parliament. One path dependency that is formally relevant to the case of the EEAS is the budget authority of the Parliament. The Lisbon Treaty implemented the situation whereby Council and Parliament decide together on the general budget of the EU. The Parliamentarians openly threatened to use their veto on the budget if their opinion was ignored on the set-up of the EEAS (European Parliament 2010a). According to historical institutionalism, this was a locked-in situation (North 1990: 7) or an unintended consequence of former decisions (Fioretos

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<sup>4</sup> For a general introduction to the role of the European Commission in external relations, please see Keukeleire and MacNaughtan (2008: 89-93).

2011: 369), which the Council was not able to ignore. Therefore, the first hypothesis of this paper is:

*Hypothesis 1: Inter-institutional dynamics and constraints within the EU have led to the new role of the Parliament.*

The opposite approach to the rational strand within the spectrum of new institutionalism is *sociological institutionalism*. As mentioned earlier with respect to rational choice institutionalism, it is also the case with this theory that very distinct approaches are summarized under the label of sociological institutionalism (Peters 2005: 111). Nevertheless, the latter approaches share a much wider definition of institutions than do their rational counterpart. Along with formal rules, informal rules are included, which may be norms, symbols and beliefs (Hall and Taylor 1996: 946-47). The *Homo Sociologicus* is consequently influenced by his individual worldview and the framework in which he decides. This implies the mutual constitution of actors and institutions, which is line with historical institutionalism but would not be found in rational approaches. The mutual dependency brings a 'logic of appropriateness' to the rationale of the actors in line with the institutional setting in which they have to act (Risse 2004: 163). What is 'appropriate' depends on the intersubjective norms of a society (Finnemore and Sikkink 1998: 891-892). According to sociological institutionalism, one reason for institutional change is the inherent goal of societal legitimation of the institution (Powell and DiMaggio 1991: 67).

The Lisbon Treaty (2007) altered the power structures of European foreign policy in favor of the European Parliament (European Parliament n.a.) and introduced new institutions, such as the EEAS (Treaty of Lisbon: title 5, article 27). This institutional change and institution building within the framework of European foreign policy has led to less power for the member states: veto powers of the Parliament concerning international agreements and general budgetary competences have strengthened its position at the expense of the Council, hence the member states (European Parliament n.a.). The EEAS might 'Europeanize' or 'Brusselize' decisions of foreign policy, since it will be part of the institutional set-up in Brussels and not within the diplomatic services of the member states (Vanhoonacker 2005: 85).<sup>5</sup> This process cannot be explained by simple cost-benefit calculation of the relevant actors - the member states - since they decided against their own benefit (Stein 1982: 301): the involvement of the Parliament means less influence on the part of the member states as well as reduced efficiency in policy making, since more participants means more need for communication and compromise.

A cost-benefit rationale could be investigated within the context of the Parliament, since this institution widened its competences. However, the Parliament did not decide on the treaty changes and is not an independent state. Therefore, it is not a relevant actor according to rational choice (Stein 1982: 301).

Involvement of the European Parliament in policies is closely connected to aspects of democratic control and general legitimacy (Goetze and Rittberger 2010: 37-54; Keukeleire and MacNaughtan 2008: 96; Vanhoonacker 2005: 87), particularly due to the direct European wide elections of only this EU organization, hence its direct link to European citizens. Since the motivation for institutional change or rather institution

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<sup>5</sup> For a general introduction to the Europeanization of European foreign policy, please see Wong (2005).

building might lay in normative motivation connected to the legitimacy of an institution, sociological institutionalism provides an ideal starting point for analysis. Additionally, with the Treaty of Lisbon, co-decision became the ordinary legislation procedure, in which Parliament and Council act as equals. Since its introduction with the Maastricht Treaty (1992), application of the procedure has increased with each treaty reform. With sociological institutionalism, one could argue that the procedure of co-decision has evolved to a habit of how decisions are made (Goetze and Rittberger 2010: 37-54). The member states have become used to asking the Parliament and therefore, they might take the parliamentary opinion into account even if they are not obliged to.<sup>6</sup> For democratic governments, it is appropriate behavior to involve a Parliament in decisions, which creates a normative context despite the EEAS being a new issue on the European agenda (Finnemore and Sikkink 1998: 891-892).

The second hypothesis of this paper is accordingly:

*Hypothesis 2: The Parliament was granted its new powers due to a new strategy of the EU to enhance its general legitimacy and reduce the democratic deficit.*

At the same time, inter-institutional dynamics might have shaped the present situation, which suggests using historical institutionalism for our investigation. Since both theoretical strands will be used for analysis, one overarching definition has to be applied to guarantee comparable results. Regarding the literature, Powel and Di Maggio comment that 'it is easier to gain agreement about what it is *not* than about what it *is*' (DiMaggio and Powel 1991: 1). One overarching definition of political institutions is offered by Shepsle, who sees political institutions as 'ex ante agreements about a structure of cooperation [...] [*that*] economize on transaction costs, reduce opportunism and other forms of agency "slippage", and thereby enhance the prospects of gains through cooperation' (Shepsle 1986: 74). Here, the effects of institutions are included in their definition. Next to the analytical problem of mixing up dependent and independent variables, if institutions fail, they would not be institutions according to this definition. Since it is very useful to include formal as well as informal aspects of institutions as well as their purpose, I propose the following definition based on the literature cited above:

Institutions are agreements aiming at structured cooperation. They intend to reduce transaction costs, prevent opportunism, and thereby enhance the prospects of cooperative gains. They may lead to informal structures based on formal agreements.

This definition includes established behavior as well as research objects such as the emerging EEAS. At the same time, the purpose of institutions is included but not their effects. Even more important, informal institutions might be an additional consequence of the formally institutions agreed upon. Therefore, they are included in the definition. The next section will bridge the theoretical basis of this paper and the methods required for analysis.

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<sup>6</sup> Another example, supporting this argument is the Council's habit of deciding unanimously in CFSP even if it is formally not required to do so (Keukeleire and MacNaughtan 2008: 109).

## Methods

This paper aims to shed light on how the European Parliament is shaping the external relations of the European Union, using its new powers granted by the Treaty of Lisbon and informal possibilities to push its influence even further. The case study will be the institution building of the new EEAS, which is at the same time an instance of institutional change within European foreign policy. As the historical introduction has shown, the Parliament's role in the set-up of the EEAS was restricted to consultation; the final decision was left to the Council (Treaty of Lisbon: title 5, article 27). Nevertheless, the Parliament threatened to use its budgetary veto if it were not involved in the drafting process (European Parliament 2010a). The decision on budgetary competence for the Parliament was decided earlier and now this right influenced the set-up of a new institution, the EEAS. Hence, this process would be an example for a path-dependent inter-institutional dynamic, as proposed by historical institutionalism (North 1995: 18; Pierson 2000: 252). At the same time, the role of the European Parliament is closely connected to aspects of democratic control and general legitimacy (Keukeleire and MacNaughtan 2008: 96; Vanhoonaeker 2005: 87) as well as to appropriate practices in policy making (Goetze and Rittberger 2010: 37-54), all elements brought to the fore by sociological institutionalism (Powell and DiMaggio 1991: 67).

The analysis of institutional documents will shed light on the role of the Parliament in the institution building of the EEAS. Press releases, reports and adopted texts by the Parliament and speeches by the High Representative will be analyzed. Since the amount of texts is too small for quantitative methods of analysis, qualitative content analysis will be employed. The time frame is set by the EEAS drafting period: the first proposal was made by the High Representative on 25 March 2010; the final text was adopted by the European Council on 25 July 2010. For conciseness, these documents are henceforth referred to as *Ashton's Draft* and the *Council Decision*.

Some flexibility with the time span will be allowed, since a press release could have been published shortly before or after the events. The theoretical framework is derived from historical as well as sociological institutionalism as introduced above.

The puzzle is why the High Representative and the Council allowed greater parliamentary influence than is laid down by the Treaty. The institutional change is the Parliament's influence on *Ashton's Draft* beyond its formal role of consultation. To begin, *Ashton's Draft* will be compared with the *Council Decision* on the EEAS. The changes will be analyzed for parliamentary influence.

The first hypothesis is derived from historical institutionalism, which would expect institutional change to be dominated by path dependency and cost-benefit calculation (North 1995: 18; Pollack 2004: 139-41). Hence, institutional constraints as well as rational considerations should have dominated the role of the Parliament. Therefore, the hypothesis says:

*Hypothesis 1: Inter-institutional dynamics and constraints within the EU have led to the new role of the Parliament.*

The competing and second hypothesis is derived from sociological institutionalism that suggests institutional change due to legitimacy considerations (Powell and

DiMaggio 1991: 67) and habits (Goetze and Rittberger 2010: 37-54) based on appropriateness (Finnemore and Sikkink 1998: 891-92). Hence, the hypothesis reads as follows:

*Hypothesis 2: The Parliament was granted its new powers due to a new strategy of the EU to enhance its general legitimacy and reduce the democratic deficit.*

Motivation of the High Representative and Council is the key to the analysis, since they are the relevant decision-making bodies for the EEAS. But self-perception and presentation of the Parliament will be analyzed as well, since this can influence the behavior of the other actors. In investigating the hypotheses, press releases of the Parliament and speeches of the High Representative on the EEAS will be analyzed. This will illustrate negotiations between Ashton and the Parliament and reconstruct the motivation for changes of *Ashton's Draft*. The analysis will shed light on the main question of this paper: *whether inter-institutional dynamics within the European Union or a new strategy to enhance the general legitimacy of the European Union has led to the new role of the European Parliament*. The first would be in line with historical institutionalism, the latter with sociological institutionalism.

## **Pushing the frontiers of consultation: The European Parliament's influence on the EEAS**

The following section of this paper will investigate whether the Parliament was allowed to influence *Ashton's Draft* more than initially planned by the High Representative and the Council. Secondly, the two institutionalist hypotheses will be tested. It will be analyzed whether legitimacy aspects or rational choice inter-institutional dynamics within the EU have led to the new role of the Parliament.

The Lisbon Treaty introduced the new EEAS (Treaty of Lisbon: title 5, article 27) as well as the new role of the High Representative of the Union for Foreign Affairs and Security Policy (Treaty of Lisbon: title 3, article 18). As described in the historical overview, the first step towards the EEAS was *Ashton's Draft* concerning the institutional set-up, on 25 March 2010. Procedurally, the Lisbon Treaty demands consent of the Commission and consultation with the Parliament before the Council adopts the decision. Hence, the Parliament's opinion might be considered but legally speaking its opinion does not have to be taken into account by the Representative and the Council. The Council adopted the final proposal on 26 July 2010 (European Council 2010a). During this time period of negotiation, the Parliament stressed the importance of its opinion and how it made use of budgetary powers to enforce parliamentary demands (European Parliament 2010a). However, when it comes to the powers of the Parliament, the Parliament might not be a very neutral source. Therefore, differences between *Ashton's Draft* and the *Council Decision* will be checked for influence of the Parliament in the following section. For the latter, the working document on the 'Proposal for the establishment of the EEAS' (European Parliament 2010b) by the Parliament will be consulted as well as the 'Report on the proposal for a *Council decision* establishing the organization and functioning of the European External Action Service' (European Parliament (2010i)). Henceforth, the documents are referred to as *Parliament's First Position* and *Parliament's Final Position*.

## From draft to conclusion: Changes by the Parliament?

The *Parliament's First Position* was published on 6 April 2010, written by the parliamentary rapporteurs on the EEAS (European Parliament 2010b), hence less than two weeks after *Ashton's Draft*. Below, *Parliament's First Position* will be compared to the changes between *Ashton's Draft* and the *Council Decision*; secondly, *Parliament's Final Position* will be analyzed.

Rapporteurs, members of the European Parliament (MEP) Elmar Brok and Guy Verhofstadt stress in the beginning of the *Parliament's First Position* that essential issues of the Parliament shall be added to the *Council Decision* so 'the Parliament is to be able to support the establishment of the EEAS and provide it with political legitimacy' (European Parliament 2010b: 1). According to the document, essential issues are 'budgetary prerogatives, political accountability, including the hearing of top EEAS staff by the European Parliament prior to taking up their posts, as well as the need for strengthened consultation mechanisms regarding Council decision-making on the Common Foreign and Security Policy' (European Parliament 2010b: 1). These issues will guide the comparison of *Ashton's Draft* (Ashton 2010a) and the *Council Decision* (European Council 2010b).

Comparing *Ashton's Draft* and the *Council Decision* on the organisation and functioning of the EEAS, half of the text appears to have been changed or added to the original. With regard to the question of this paper, the effects on the role of the Parliament are of special interest and will be summarized in the following. This will be directly compared to the requests of *Parliament's First Position*, which may present evidence for parliamentary influence.

The sixth paragraph of the *Council Decision* (which had been the fifth of *Ashton's Draft*) defines the role of the Parliament. Provisions for parliamentary access to classified documents have been added (European Council 2010b). Concerning the 'essential issues' of the Parliament, this can be subordinated to 'political accountability'. Further, the rapporteurs request access to EEAS documents under the headline 'democratic accountability' (European Parliament 2010b: 5, 10). Here, the Parliament might have been able to change *Ashton's Draft* according to its demands, especially since neither Council nor Commission benefit from this procedure. The motivation of the Council, which is the decision-making body of the process, did not act according to rational cost-benefit calculation (Stein 1982: 301). It gave more power to the Parliament at its own expense, hence might have been normatively motivated. However, the Parliament also wanted this provision set out in a separate agreement, which would have granted access to briefing and security arrangements for parliamentary delegations to third countries too. This was not adopted by the Council.

The eighth paragraph of the *Council Decision* (former seventh of *Ashton's Draft*) keeps the original text parts which are relevant for the Parliament, stating that the number of officials and servants of the EEAS will be decided each year as part of the budgetary procedure and will be reflected in the establishment plan (European Council 2010b). Since the Parliament decides with the Council on the budget, it was intended or at least tolerated to involve the Parliament in staff questions without obvious lobbying from the Parliament being necessary. Analyzing this according to historical institutionalism, a path dependency appeared (North 1995: 18; Pierson 2000:

252). The earlier decision on the general budgetary competence of the Parliament has influenced the EEAS budget procedure. The latter case includes staff competence, which is new for the Parliament. Hence, an earlier decision influenced present opportunities (Pierson 2000: 252). Sociological institutionalists could argue that the Parliament was granted new powers it did not even request from the Council. Since bargaining was not present, normative motivation of the Council to enhance the legitimacy of the EEAS and external relations in general might have been crucial, since societal legitimation is one inherent goal of institutions (Powell and DiMaggio 1991: 67).

Paragraph 14 of the *Council Decision* on the inclusion of the EEAS budget in the Union's budget is new. It includes the statement: '[t]he High Representative will provide the European Parliament with all necessary support for the exercise of the European Parliament's right as discharge authority'. This right is part of the Parliament's essential issue of 'budgetary prerogatives' (European Parliament 2010b: 2). In a later paragraph, under the heading 'budgetary accountability', the parliamentary rapporteurs stress the safeguarding of the Parliament's budgetary authority and highlight that their explicit right of discharge shall be included in the safeguard (European Parliament 2010b: 6, 10). This paragraph was not drafted by Ashton and involves no obvious advantages for the Council or the Commission (Ashton 2010a). Therefore, the Parliament might have accomplished one of its goals according to their *First Position*. Here, the historical concept of path dependency concerning the crucial role of the Parliament in the European budget becomes especially obvious (North 1995: 18; Pierson 2000: 252). On the other hand, sociological institutionalism could explain that since the EP has already become a respected authority in this field, its budgetary competence is not questioned concerning new institutions such as the EEAS. Therefore, it was appropriate for the Council to give the Parliament budgetary competences (Finnemore and Sikkink 1998: 891-892).

Article 3 (4) of the *Council Decision* adds to the sentence from *Ashton's Draft* (2010a): 'The EEAS shall extend appropriate support and cooperation to the other institutions and bodies of the Union' the following, 'in particular to the European Parliament'. Parliament's *First Position* demands support especially for the parliamentary activities abroad as well as for the cooperation between the High Representative and the Parliament (European Parliament 2010b: 4, 5, 7, 10). Furthermore, 'the *Council Decision* establishing EEAS must explicitly refer to this [second] principle' (European Parliament 2010b: 5). In the *Council Decision*, the supportive role of the EEAS vis-à-vis the Parliament is specified and stressed, which can be interpreted as a parliamentary assertion.

Article 6 (9) of the *Council Decision* is a new paragraph, regulating staff quota. Staff from the member states 'should represent at least one third of all EEAS staff at AD [administrative] level' (European Council 2010b). The Parliament requested in its *First Position* that more than half of all AD staff should be transferred from the Commission (European Parliament 2010b: 7). Hence, the *Council Decision* is in line with Parliament's *First Position*. Furthermore, the *Council Decision* adopted that permanent officials of the Union should represent at least 60 percent of all EEAS staff at AD level, including staff originating from the member states (European Council 2010b: Article 6 (9)). This is also in accordance with the demands of the Parliament's *First Position* (European Parliament 2010b: 7). The last demand of the Parliament is: 'That each year, the High Representative shall present a report to the European Parliament and the



Council on the occupation of posts in the EEAS'. Concerning this last sentence, the Council did not adopt the text. Summing up, the staff issue shows a compromise between Council and Parliament. Both bodies might have had the effect of 'Europeanization' or 'Brusselization' in mind, which describes a socialization process of staff if they work in EU institutions. Perspectives and loyalties might change from national to European (Norheim-Martinsen 2010: 1356). Temporary national officials may prevent this assumed socialization, which would be in the interest of the member states and against the Parliament as well as the Commission.

As far as the last remaining essential issues of Parliament's *First Position* are concerned (European Parliament 2010b: 2), the hearing of top EEAS staff by the European Parliament prior to taking up their posts and strengthened consultation mechanisms regarding Council decision-making on CFSP were not adopted by the *Council Decision*. This decision emphasizes that the top delegation officials will be chosen by the Council alone.

Former article 12 of *Ashton's Draft*, now 13 on final and general provisions of the *Council Decision*, paragraph 2 changes from 'The High Representative shall submit a report to the Council on the functioning of the EEAS' to 'The High Representative shall submit a report to the European Parliament, the Council and the Commission on the functioning of the EEAS' (European Council 2010b). This was not requested by Parliament's *First Position*. The motivation of the Council may have been to strengthen the legitimation of the EEAS (Powell and DiMaggio 1991: 67).

Summarizing the results, comparison of the three official documents suggests that the Parliament was allowed to influence the EEAS *Council Decision* more than initially planned by the High Representative. The initial plans of the Council cannot be derived from the analyzed material. However, it implemented parliamentary demands, which are solely in the interest of the Parliament; hence the motivation for implementation cannot be explained by Council interests regarding its own power position or efficiency enhancement. Of course, the Parliament could have acted according to rational cost-benefit calculation as well in order to strengthen its position. However, decision on institutional changes did not lie with the Parliament but with the Council (Treaty of Lisbon: title 5, article 27). Even if the Parliament wanted to act according to cost-benefit, it was still not allowed to do so according to its legal position. Hence, within rational choice, the motivation of the Council is the key to analysis and cannot be explained with a power rationale (Stein 1982: 301).

This first result allows for further investigation of the role of the Parliament in the set-up of the EEAS. The texts will be analyzed with particular regard to the two hypotheses of this paper:

Hypothesis 1: Inter-institutional dynamics and constraints within the EU have led to the new role of the Parliament.

Hypothesis 2: The Parliament was granted its new powers due to a new strategy of the EU to enhance its general legitimacy and reduce the democratic deficit.

In the following, the 'Report on the proposal for a *Council Decision* establishing the organization and functioning of the European External Action Service' by the

Parliament (2010i) will be compared to the changes between *Ashton's Draft* and the *Council Decision*. Henceforth, the document is referred to as *Parliament's Final Position*.

*Parliament's Final Position* was published on 6 July 2010, hence about two weeks before the *Council Decision*. The text encloses a detailed list of amendments requested by the Parliament. Comparing the changes with the amendments of *Parliament's Final Position*, an overwhelming amount of text was adopted word for word, which strongly supports the overarching hypothesis that the Parliament influenced the institutional set-up of the EEAS beyond its formal competences. With the content analysis above, *Parliament's First Position* was compared to the changes between *Ashton's Draft* and the *Council Decision*. In the following, I will analyze the influence of *Parliament's Final Position* on the changes. I will especially return to the articles and paragraphs analyzed above, since they are the essential issues of the Parliament.

The sixth paragraph of the *Council Decision* adds provisions for parliamentary access to classified documents to *Ashton's Draft* (European Council 2010b). The text of the *Council Decision* and *Parliament's Final Position* is almost the same wording (European Parliament 2010i: 8). This is a change by the Parliament in its own interest. The Parliament requested access already in its *First Position*, arguing on the basis of 'democratic accountability' (European Parliament 2010b: 5; 10). In order to illustrate the changes, Figure 1 is an example of changes between the four documents.

Figure 1 highlights that the Council decided against its own rational cost-benefit calculation (Stein 1982: 301) to grant access to Members of Parliament. Council meetings 'behind closed doors' (Nugent 2006: 341; Wagner 2007: 1) in external relations are therefore limited. Since neither Commission nor Council benefit from this change but rather the Parliament, normative motivation might be the key. According to sociological institutionalism, a 'logic of appropriateness' influences the actors to decide in line with the institutional setting in which they have to act (Risse 2004: 163). The Council might have included parliamentary access to the documents, since involvement of the Parliament is normatively anchored in a democratic political system (Finnemore and Sikkink 1998: 891-92). Furthermore, involvement of the Parliament in the process of decision making may enhance democratic accountability and therefore, societal legitimation of the EEAS and external relations more generally, another argument of sociological institutionalism (Powell and DiMaggio 1991: 67). The parliamentary demand to regulate access to documents in a separate agreement along with special arrangements for parliamentary delegations to third countries was dropped in *Parliament's Final Position*.

The four following paragraphs of the *Council Decision* concern the EEAS staff (2010b). They entail provisions of staff loyalty, recruitment, quota and seconded national experts. These paragraphs were not part of *Ashton's Draft* (2010a), but they can all be found adopted word for word in the *Parliament's Final Position*: article 9 of the *Council Decision* is amendment 7a of *Parliament's Final Position*; article 10 is the same as 7b; article 11 is 7c and article 12 is identical to 7d (European Parliament 2010i: 7-11; European Council 2010b). Recruitment and regulation of EEAS staff was one of the essential issues for the Parliament. MEPs could not achieve their goal of hearings of top EEAS staff by the European Parliament prior to taking up their posts. However, staff recruitment and regulation in the *Council Decision* was established according to the Parliament's wishes laid down in the *Parliament's Final Position*. Over time, this could work in favor of the Parliament, if the staff became 'Brusselized' (Norheim-

Martinsen 2010: 1356). If the loyalties of the officials switched from the member states to the Union, cooperation between Members of Parliament and EEAS staff would develop towards a common procedure at the expense of member states' influence.

Ashton's Draft (25 March 2010)	Parliament's First Position (6 April 2010)	Parliament's Final Position (6 July 2010)	Council Decision (20 July 2010)
(5) The European Parliament will fully play its role in the external action of the Union, [including its functions of political control as provided for in Article 14(1) of the TEU, as well as in legislative and budgetary matters as laid down in the Treaties. Furthermore, in accordance with Article 36 of the TEU, the High Representative will regularly consult the European Parliament on the main aspects and the basic choices of the CFSP and will ensure that the views of the European Parliament are duly taken into consideration.] The EEAS will assist the High Representative in this regard.	Detailed functioning of the relationship between the EEAS and the Parliament, including, inter alia, the question of participation of the HRVP and her deputies in parliamentary proceedings, <i>access to EEAS documents</i> and briefings, or the issue of security arrangements for parliamentary delegations to third countries, is to be set out in a separate agreement, to be agreed before the Council decision is adopted.	(5) The European Parliament will fully play its role in the external action of the Union, [same wording as in <i>Ashton's Draft</i> , left column (author's comment)]. The EEAS will assist the High Representative in this regard. <i>Specific arrangements should be made with regard to access for Members of the European Parliament to classified documents and information in the area of CFSP. Until the adoption of such arrangements, existing provisions under the 2002 Interinstitutional Agreement on classified documents and information in the area of ESDP will apply.</i>	(6) The European Parliament will fully play its role in the external action of the Union, [same wording as in <i>Ashton's Draft</i> , left column (author's comment)]. The EEAS will assist the High Representative in this regard. <i>Specific arrangements should be made with regard to access for Members of the European Parliament to classified documents and information in the area of CFSP. Until the adoption of such arrangements, existing provisions under the Inter-institutional Agreement of 20 November 2002 between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy will apply.</i>

**Figure 1:** Comparison of the relevant documents of the content analysis. Changes by the Parliament are highlighted in italic characters.

Paragraph 14 on the explicit inclusion of the EEAS budget in the Union's budget was not part of *Ashton's Draft* (2010a) but is part of the *Council Decision* (European Council 2010b). The *Parliament's Final Position* also includes the text (2010i: 12-13). It was an important paragraph for the Parliament since it stresses its right as discharge authority. Hence, this was clearly in the interest of the Parliament. The general involvement of the Parliament in budgetary procedure was intended from the start and can be found in *Ashton's Draft* (2010a). Hence, the Parliament did not need to push this through. This can be explained by historical as well as sociological

institutionalism. The first theory highlights the crucial role of the Parliament in general budget procedures and therefore stresses 'path dependency' (North 1995: 18). Sociological institutionalism argues that the involvement of the Parliament in the EU budget makes it 'appropriate' to involve the Parliament in general if budget issues are at stake (Risse 2004: 163).

The impression from the first comparison concerning Article 3 (4) is supported by further evidence: support and cooperation of the EEAS 'in particular to the European Parliament' was found in the *Council Decision* but not in *Ashton's Draft*. This sentence was part of the *Parliament's Final Position*. The parliamentary amendment was adopted in the *Council Decision* ensuring EEAS resources and support for the Parliament.

Article 6, regulating staff issues, was almost completely changed from *Ashton's Draft* to *Council Decision*. The changes between *Ashton's Draft* (2010a) and the *Council Decision* (European Council 2010b) can be traced through amendments from *Parliament's Final Position*; more than half of the text was added or revised by the European Parliament (2010i: 9-10). Especially paragraph 9 of the *Council Decision* is interesting since it regulates staff quotas. Representation of the Commission and member states is in line with the initial requests of the Parliament, where *Ashton's Draft* did not regulate this. An annual report to the Parliament shall ensure regular involvement of the institution on the EEAS staff.

The regulation of the EEAS officials was a central issue of the Parliament; analysis shows that *Parliament's First Position* as well as in *Parliament's Final Position* made clear requests to ensure that the new institution will develop a 'collective *esprit de corps*' (Norheim-Martinsen 2010: 1356) instead of representing the member states on the European level of politics (European Parliament 2010b: 7; European Parliament 2010i: 9-10). Even though not all changes requested by the Parliament were adopted, the documents suggest compromise between the institutions, which is clearly beyond the formal consultation role of the Parliament.

Furthermore, the second paragraph of article 13 of the *Council Decision* guarantees that not only will the Council receive a report on the functioning of the EEAS by the end of 2011 but so will the Parliament and Commission (European Council 2010b). This clearly enhances the status of the Parliament, which might be considered appropriate by the Council and the High Representative. This is an argument lent from sociological institutionalism (Risse 2004: 163).

This first section makes it clear that the Parliament was allowed to influence the drafting procedure on the function of the EEAS beyond its formal role. The formal influence was restricted to consultation. Comparing the changes between *Ashton's Draft* (2010a) and the *Council Decision* (European Council 2010b) to the two documents by the Parliament, the almost word for word adoption of amendments requested by the *Parliament's Final Position* is striking. Analyzing the final wording, the importance of the role of the Parliament within the drafting procedure could have been equal to that of the High Representative. Even though not all demands are included, qualitative analyses of the documents suggest compromise not consultation. This strong influence of the Parliament is puzzling since the High Representative and the Council allowed greater influence than is laid down by the Treaty. This course of action cannot be explained by rational cost-benefit calculation since influence for one

institution within the drafting procedure means less influence for another (Stein 1982: 301). The second empirical section will analyze the motivation of the actors involved - the High Representative, the Parliament and the Council.

### **Between draft and conclusion: Motivation of the relevant actors**

In the section above, much evidence supporting the overarching hypothesis of this paper was presented: the European Parliament was allowed to influence the institutional framework of the EEAS to a greater extent than laid down in the Treaty of Lisbon. Furthermore, rational choice theory has proven to be of limited use for analysis, since cost-benefit maximizing was not present during the negotiations between the Council, the Parliament and the High Representative. The member states in formation of the Council were the formally relevant decision makers on the EEAS structure as intended by the Treaty of Lisbon (Treaty of Lisbon: title 5, article 27). Nevertheless, the Council granted the Parliament influence and powers concerning the new institution, which will strengthen the parliamentary position within external relations in the long run. This process cannot be explained by simple cost-benefit calculation of the relevant actors - the member states - since they decided against their own benefit (Stein 1982: 301).

Derived from historical institutionalism, mechanisms such as path dependency (North 1995: 18), 'locked-in' and feedback effects (North 1990: 7) are expected to shape the policy outcome of the EEAS negotiations. Locked-in describes restrictions of actors facing institutions. The most relevant actors are the Council and the High Representative since they are the decision-making bodies guided by bounded rationality. Sociological institutionalists would expect institutional change to be dominated by legitimacy considerations (Powell and DiMaggio 1991: 67) as well as a 'logic of appropriateness' (Finnemore and Sikkink 1998: 891-92; Risse 2004: 163).

In order to shed light on the reasons for parliamentary involvement, the negotiations between Mrs. Ashton and the Parliament will be analyzed using press releases of the Parliament and speeches of the High Representative on the EEAS. Unfortunately, availability of official documents by the Council is too limited to add meaningful evidence to this analysis. Press releases just summarize the status quo of procedure without commenting on different positions or demands of the institutions involved (Council 2010a).

The Parliament published seven Press Releases on the EEAS, while Ashton gave three speeches in front of the Parliament's plenary or to relevant parliamentary committees on the topic within the time frame of analysis. The documents shed light on the dialogue between the Parliament and the High Representative. They will be investigated chronologically.

Ashton gave her first speech on 10 March 2010. The content of the speech was very broad, summing up the geo-political situation of the EU and the needs for a coherent, consistent and efficient European foreign policy. She hopes for support from the Parliament. On her motivation to involve the institution she said: 'I know there is keen interest in the House in the EEAS. That is why I have ensured involvement from the EP in the High Level Group' (Ashton 2010b: 4). Interest of the Parliament in the EEAS speaks for neither historical nor sociological institutionalism. In this first speech, Mrs. Ashton also announced that she would meet the Foreign Affairs

Committee of the Parliament on 23 March, where she wanted to use the ‘opportunity to have an in-depth exchange in the presence of all relevant committees’ (Ashton 2010b: 4).

This mentioned appointment was the occasion for her second speech on 23 March 2010. Ashton announced in her introduction that she wanted to use this meeting with the parliamentary Foreign Affairs Committee to discuss the creation of the EEAS as well as to report on the outcome of the Foreign Affairs Council, which was held the day before on the EEAS (Ashton 2010c: 2). Her ‘watchwords’ for the service are ‘maximizing synergies, avoiding heavy procedures and strengthening our collective impact on the ground’. Here, no concerns regarding democratic control or legitimacy of the EEAS were mentioned (*ibid.*). However, she declared that the Parliament has ‘a right to be involved’. Her reasons for this are the Parliament’s right to give an opinion, its budgetary powers, and co-decision concerning the Financial and Staff Regulation (Ashton 2010c: 3). This remark would be in line with historical institutionalism, where former decisions have an impact on present procedures (North 1995: 18). Later, she mentions the democratic scrutiny process of the Parliament, by which it exercises oversight over cooperation programs. This ‘adds legitimacy to our policies and will be maintained’ (Ashton 2010c: 4). Here, legitimacy gives a reason for the influence of the Parliament, as sociological institutionalism suggests (Powell and DiMaggio 1991: 67). According to Ashton, the relevant stakeholders in negotiations on the EEAS are ‘the EP, the Council, the Commission and myself’ (Ashton 2010c: 4). This is clearly an upgrading of the Parliament’s role.

In its first two press releases, the Parliament commented, regarding the meeting with Ashton, that budgetary and political accountability were essential for the Parliament’s support (European Parliament 2010d). The two press releases published in April discuss the issue of budgetary control. First, the Parliament stressed that approval of the service’s budget and staff allocations would not be separated from the general approval of *Ashton’s Draft*, hence, parliamentary approval became conditional (European Parliament 2010a). Second, the Parliament demanded written guarantees for their budgetary discharge right concerning the EEAS (European Parliament 2010e). The reasoning of the Parliament is in line with historical institutionalism, since the press releases stress the crucial role of the Parliament in general budget procedures and therefore argue in line with ‘path dependency’ (North 1995: 18; Pierson 2000: 252). Legitimacy aspects, as suggested by sociological institutionalism (Powell and DiMaggio 1991: 67), were not expressed in the parliamentary press releases.

The press release from May, stressed the ‘package’ negotiation strategy of the Parliament to push EEAS staff regulation in line with the ‘communitarian’ model, which means that EEAS staff should be paid from the Community budget. Furthermore, seconded staff from the member states should be limited in order to guarantee staff loyalty to the Union instead of to the member states (European Parliament 2010f). Here, the argument is based on institutional possibilities of the Parliament instead of normative implications, which is another position of historical institutionalism theory (North 1990: 7). Furthermore, the press release is another hint that the Parliament had a ‘Brusselization’ process in mind (Vanhoonacker 2005: 85), connecting loyalty of the staff to the institutional structure of the EEAS, with salaries to be paid by the Community instead of from national budgets.

The Press Releases in June commented on the political agreement reached between Mrs. Ashton and the negotiators drawn from Members of Parliament. According to the documents, the identity of the Community will be strengthened and political and budgetary accountability to Parliament has been guaranteed (European Parliament 2010g; 2010h). The last Press Release reported that the Parliament was able to negotiate 'substantial changes' to *Ashton's Draft* despite its limited consultation role (European Parliament 2010c). This claim is supported by the evidence of the content analysis of this paper (see section preceded above).

Mrs. Ashton gave her last speech before the plenum on the 7 July 2010. She began with acknowledgement of the actors involved in negotiations on the set-up of the EEAS. Then she commented on the central changes to her Draft. Mrs. Ashton declared that political accountability was strengthened because of the involvement of the Parliament (Ashton 2010d: 3). One of her last remarks is: 'I agree with the amendments that you have proposed and I will support them in the Council. It is important to try to get things right at the beginning' (Ashton 2010d: 4). Getting things 'right' as well as strengthened accountability indicates normative reasoning instead of inter-institutional dynamics, hence, it is a citation expected by sociological institutionalism (Powell and DiMaggio 1991: 67).

As a result of this second section, further evidence has been presented for parliamentary influence beyond formal provisions. However, the analyzed Press Releases of the Parliament and the Speeches by the High Representative are not conclusive concerning the two competing hypotheses as to whether legitimacy aspects or inter-institutional dynamics within the EU have led to the new role of the Parliament. Considering the speeches, a normative tendency can be seen. Whether this is a true reflection of her opinion or it is not, is an interesting question but not of high relevance for this paper. Rational choice institutionalism would not expect this behavior, sociological institutionalism could explain true normative motivation and behavior of appropriateness. Mrs. Ashton used normative reasoning in her speeches for the involvement of the Parliament, more than the Parliament did in its Press Releases, surprisingly. In the latter, possibilities arising from the institutional set-up were stressed. This is striking since the Parliament could have argued for its involvement because of democratic reasons instead of institutional constraints. Next, the conclusion will summarize the main findings and their implications for theory as well as future research.

## Conclusion

The set-up of the European External Action Service was one of the fundamental changes in European foreign policy introduced by the Treaty of Lisbon (Council 2010a). The negotiations on how to implement the Lisbon provisions were not without conflict. This is in line with the general establishment of a European foreign policy; member states have been reluctant to implement this policy field and at the same time have been trying to do so since the early beginnings of the European Communities (Wallace 2005: 430). A lack of public participation, parliamentary influence as well as democratic legitimacy, however, have led to an oft-made democratic-deficit criticism (Bono 2004: 177-78; Chrysochoou 2003: 365-74). Especially the Common and Security Policy has been dominated by the member

states at the expense of influence and democratic control on the part of the European Parliament (Keukeleire and MacNaughtan 2008: 93-95).

This paper investigated the new role of the Parliament in European foreign policy in general and in the institutional set-up of the EEAS in particular. The first part of the content analysis traced the changes between *Ashton's Draft* (2010a) and the *Council Decision* (European Council 2010b) on the EEAS. With this first step of analysis, influence on the part of the Parliament on the EEAS structure beyond its formal competences became clear. As a second analytical step, I attempted to investigate the motivation of the High Representative and the Council for parliamentary influence. Derived from historical and sociological institutionalism, two competing hypotheses were established:

Hypothesis 1: Inter-institutional dynamics and constraints within the EU have led to the new role of the Parliament.

Hypothesis 2: The Parliament was granted its new powers due to a new strategy of the EU to enhance its general legitimacy and reduce the democratic deficit.

The first hypothesis, derived from historical institutionalism, would expect institutional change to be dominated by path dependency (Pierson 2001: 252) and cost-benefit calculation (North 1995: 18; 1990: 8). Hence, institutional constraints as well as rational considerations should have dominated the role of the Parliament. The competing and second hypothesis was derived from sociological institutionalism and suggested institutional change due to legitimacy considerations of the relevant actors in charge (Powell and DiMaggio 1991: 67; Risse 2004: 163) as well as the appropriateness of the involvement the Parliament (Finnemore and Sikkink 1998: 891-92). Motivation of the High Representative and Council is the key to analysis, since they are the relevant decision-making bodies for the EEAS. Press releases of the Parliament and speeches of the High Representative on the EEAS showed negotiations between Mrs. Ashton and the Parliament.

Content analyses of inter-institutional documents suggest recognition of the Parliament as an important actor by the other institutions, especially the High Representative. Mrs. Ashton allowed the Parliamentarians to influence her *Draft Proposal* (2010a) for the *Council Decision* (European Council 2010b) further than the Lisbon Treaty intended. An overwhelming amount of changes could be traced back to the influence of the Parliament, which suggests compromise rather than consultation. The amendments strengthened the future role of the Parliament concerning the EEAS and indicate that the current position of the Parliament in the European Union is more important than the Treaties suggest.

Regarding the hypotheses of this paper, evidence supporting both competing hypotheses was found. With reference to the budget and staff issues, the Parliament threatened to use competences from other policy fields to push demands through. At the same time, the High Representative included an important role for the Parliament from the beginning. Provisions for parliamentary access to classified documents, however, were not intended by *Ashton's Draft* (2010a) but the Council decided, against its own rational cost-benefit calculation (Stein 1982: 301), to grant access to classified documents for Members of Parliament (see Figure 1). This is a change by the Parliament in its own interest. The Parliament requested access already in its *First*



*Position*, arguing on the basis of 'democratic accountability' (European Parliament 2010b: 5; 10). Furthermore, procedures 'behind closed doors' (Nugent 2006: 34; Wagner 2007: 1) in external relations are limited. Hence, a normative motivation becomes more convincing. However, further research will be necessary to conclude whether institutional dynamics or normative considerations dominated negotiations on the EEAS or, alternatively, how these factors mutually supported each other.

Combining the findings of both analyses, arguments in line with historical and sociological institutionalism were relevant, while rational choice institutionalism had less explanatory power. Institutional constraints and path dependencies were set with the formal role of the Parliament, which is limited to consultation and budgetary control. Nevertheless, the alternative hypothesis of normative motivation gains persuasiveness due to the strong democratic profile of the Parliament and arguments by the High Representative expressed in her speeches. As a conclusion, institutional change within the European Union might not only be based on cost-benefit calculation and therefore analysis should not overlook normative motivation. The analyses of this paper suggest that path dependencies, appropriateness and normative motivation shaped the *Council Decision* in combination. The European Parliament is increasingly recognized as an important policy actor by the other European institutions despite a lack of formal power, since parliamentary influence is accepted. As a result, research gave evidence to the general impression that the High Representative was motivated by institutional dynamics and normative considerations but not solely rational-choice calculation, since she allowed parliamentary influence when she was not obliged to do so. This has translated into institutional powers of the parliament even further than the Treaties intended.

Concerning the democratic deficit, one claim that is obviously present in the case study concerns accountability problems (Wagner 2007: 1). Formally, the Council is responsible for the decision on the EEAS structure; nevertheless, analysis has indicated that the Parliament was involved in negotiations on the *Council Decision* (European Council 2010b). Consequently, advocates of the thesis that intergovernmental procedures prevent a lack of democracy since elected governments are in charge (Grimm 1995: 283-84) have to rethink the classic supranational-intergovernmental divide. The decision on the EEAS was formally intergovernmental; however, the Parliament crucially influenced the institutional set-up of the EEAS. The separation between intergovernmental and supranational procedures might not be as clear as suggested by the official treaties (Kantner and Liberatore 2006: 371-72).

This result is also connected to the general understanding of the EU according to the models by Eriksen and Fossum. The authors differentiate between three models: first, a common problem-solving institution concerning economics; second, a common-identity-generating organization; and third, a supranational union for EU citizens (Eriksen and Fossum 2007: 1). Concerning the highly complex structure of the European Union, different models might apply to different policy fields but a single model for the EU seems inadequate. Even within policy fields, the integration processes are fragmented (Vanhoonacker 2005: 67-68). As in external relations, external trade is highly integrated, where the Commission acts with supranational authority and at the same time solves common (economic) problems of the member states (Vanhoonacker 2005: 68). Foreign aid shows high integration towards supranationalism and operates with reference to shared values (Vanhoonacker 2005: 74). Security and defense policy shows more intergovernmental decision making:

formally, in the domain of foreign and security policy, neither national parliaments nor the European Parliament have formal possibilities to scrutinize the decision-making process (Bono 2004: 177-78). As a result, the different models on the EU may capture the 'nature of the beast' in combination but any one model even for one policy field oversimplifies the complex structure of the European Union.

The diminishing intergovernmental-supranational divide has further implications for the democratic deficit. Formally, the democratic-deficit claim concerning parliamentary control seemed to be valid for the EEAS; the Parliament was formally not involved in the decision making on the institutional structure. Nevertheless, despite these restrictions, the Parliament did find ways to influence it. This lessens the lack of parliamentary control, but it gives rise to another accountability claim: who is responsible for a decision if the political system of the EU is not restricted to formal structures? This result suggests a new discussion of the democratic deficit beyond formal structures of the EU.

The findings of this paper question the validity of our theoretical concepts on institution building and institutional change. Theoretical approaches such as realism and intergovernmentalism mainly explain institutions by analyzing power structures or rational-choice calculation (Andreatta 2005: 25; Keukeleire and MacNaughtan 2008: 330). Concerning the case of the EEAS, the rational institutions in power allowed parliamentary influence at their own expense. The Council and the High Representative were not obliged to take the parliamentary position into account. This is at odds with the common expectations of theory based on cost-benefit calculation (Stein 1982: 301). As a conclusion, theory that is solely based on rational choice did not offer high explanatory value for the analysis. Historical and sociological arguments derived from new institutionalist strands of theory were more convincing.

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RECON seeks to clarify whether democracy is possible under conditions of complexity, pluralism and multilevel governance. Three models for reconstituting democracy in Europe are delineated and assessed: (i) reframing the EU as a functional regime and reconstituting democracy at the national level; (ii) establishing the EU as a multi-national federal state; or (iii) developing a post-national Union with an explicit cosmopolitan imprint.

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