

Tool 5

Parliamentary oversight of the security sector

Jean-Pierre Bayala, Franck Boulin,
Scott Deely and Gervais Rufyikiri



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The Geneva Centre for Security Sector Governance (DCAF) is an international foundation established in 2000. This is a leading global institution specialising in the field of good security sector governance and reform (SSG/SSR). In Africa, DCAF supports the efforts of regional organisations, national institutions and non-governmental actors who are keen to make the security sector more effective and transparent.

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About the toolkit



What is the toolkit?

This work is part of a set of publications collectively referred to by the name of *Toolkit for security sector reform and governance in West Africa*. The aim of these publications is to support the implementation of the regional regulatory framework¹ of the Economic Community of West African States (ECOWAS) in respect of SSR/SSG. Based on advice and practical guidance inspired by regional experience and tailored to the West African context, the Toolkit seeks to facilitate policy development and the implementation and management of SSR/SSG processes at the national level.

Who is the toolkit for?

The Toolkit is designed for use as a resource by the ECOWAS and by all national stakeholders within member states of the ECOWAS, including the Executive, the Parliament, the Judiciary, civil security sector oversight institutions and civil society. It is also intended for other actors involved in SSR/SSG processes, such as international partners.

How is the Toolkit organised?

The *Toolkit* is composed of eight thematic publications known as “Tools”:

- Tool 1: Political Leadership and National Ownership of Security Sector Reform Processes
- Tool 2: Security Sector Reform Programming
- Tool 3: Good Financial Governance of Defence and Security Institutions
- Tool 4: Effective Management of External Support to Security Sector Reform
- Tool 5: Parliamentary Oversight of the Security Sector
- Tool 6: Civil Society Involvement in Security Sector Reform and Governance
- Tool 7: Non-State Justice and Security Actors and Security Sector Reform
- Tool 8: Integrating Gender in Security Sector Reform and Governance



Who developed the project?

The *Toolkit* is produced by the Geneva Centre for Security Sector Governance (DCAF) at the request of ECOWAS. All Tools have been examined by an editorial board made up of world-renowned researchers and practitioners. The members of the board are West African specialists in SSR/SSG, with long experience and excellent knowledge of the region.

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Acronyms

APF	Parliamentary Assembly of Francophonie
ECOWAS	Economic Community of West African States
DCAF	Geneva Center for Security Sector Governance
DSF	Defence and Security Forces
SSG	Security Sector Governance
SSI	Security Sector Institutions
UNMIL	United Nations Mission in Liberia
MINUSMA	United Nations Multidimensional Integrated Stabilisation Mission in Mali
UN	United Nations
OSC	Civil Society Organisation
UNDP	United Nations Development Programme
SSR	Security Sector Reform
SSR/SSG	Security Sector Reform and Governance
IPU	Inter-Parliamentary Union
IMRAP	Malian Institute of Research and Action for Peace
ECPF	ECOWAS Conflict Prevention Framework



Preface

It is a great pleasure for me, as Head of the Regional Security Division of the Economic Community of the West African States (ECOWAS), to present the **Toolkit for Security Sector Reform and Governance in West Africa**. This publication is a practical guide in eight volumes, designed to facilitate the implementation of the ECOWAS regional normative framework on security sector reform and security sector governance. It was developed by DCAF – the Geneva Centre for Security Sector Governance – at the request of the ECOWAS Commission as part of a long-term collaboration.

In the light of this, DCAF and the ECOWAS Commission are working hand in hand to promote democratic governance through security sector reform in West Africa. It is within the framework of its draft “Policy on Democratic Governance and Reform in West Africa 2016” that ECOWAS is collaborating with DCAF to build operational security capacity through specific guidance tools. Indeed, DCAF provides in-depth guidance to support the development and implementation of solutions tailored to the region’s context.

This project is consistent with ECOWAS current efforts to promote security sector reform and governance standards and principles in the region and this process will help us achieve “ECOWAS Vision 2050”, which envisions West Africa as a stable and prosperous corner of Africa where people can live in peace and prosperity with accountable and effective security system. Indeed, security challenges are a key issue for respecting human rights and driving development in West Africa.

With a view to achieve coherence and harmonization of regional security and defense regulations and an optimal normative system, ECOWAS wishes to endow itself with essential good governance mechanisms to meet the challenges of human security. The ambition is to provide national authorities in charge of security with all the tools and mechanisms necessary for a coordinated approach to security risks and challenges in order to attain prosperity.

The aim is to develop and strengthen a West African security strategy to support the regalian imperative of democratic governance, protection and defense for the region’s serene development prospective. This security effort is part of the pursuit of regional development, so it is appropriate through this practical guide to maintain an overall balance between these two dimensions.

In its drive to deploy and consolidate regional integration capacities in the area of security forces, ECOWAS aims to increase the effectiveness of its regional normative framework by equipping itself with relevant practical tools in the area of security sector reform and governance. The **Toolkit for Security**

Sector Reform and Governance in West Africa strives to support the implementation of the ECOWAS security sector reform project. For this purpose, the Toolkit provides practical advice and guidance drawn from regional experience and adapted to the West African context. The advice promulgated applies to the various dimensions of security and therefore offers resources to facilitate the transition from theory to practice.

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Introduction

The successful deployment of security sector reform and good governance (SSR/SSG) processes is, to a large extent, based on the involvement of parliament. As a national process, SSR/SSG seeks to increase the effectiveness, transparency and integrity of defence and security institutions. Given their legislative, budgetary, representative and government oversight functions, parliaments play a crucial role in building effective institutions which respect the rule of law, reflect the choices expressed by citizens and are accountable to them. Parliaments must be able to influence the development of security policies to ensure that they meet the security needs and concerns of all citizens, with full respect for human rights. They must ensure that public funds are used wisely and hold security sector institutions (SSI) accountable for their actions, while guaranteeing the effectiveness of their services.

ECOWAS countries, especially post-conflict countries such as Liberia, Sierra Leone, Côte d'Ivoire, Guinea-Bissau and Guinea, should pay special attention to interdependence between development and security, and to parliamentary oversight of the security sector. Although oversight is enshrined in some constitutions, it is not effective in many West African countries.

This publication provides practical guidance to parliamentarians to facilitate their active involvement in security sector oversight. Although it is primarily intended for West African parliaments, this publication may also be used as a guide by other state and non-state actors working towards SSR/SSG in West Africa and by international partners who support the efforts of ECOWAS.

Understanding security

2.1. The concept of security

The traditional understanding of the concept of security was an idea based on the defence of the State, particularly against military aggression. The scope of the concept has now been extended to include the security of people, the protection of their fundamental freedoms and their protection against serious threats². As stated by Johanna Mendelson Forman, a former Director of the UN Foundation for Peace, Security and Human Rights Program: “Human security and national security are not mutually exclusive. Quite the opposite: they are mutually reinforcing”.

Ensuring human security is therefore a primary duty of governments, which must focus as much on border security and policing as on the everyday safety of the general public. The duty of governments goes hand-in-hand with that of non-state actors, including civil society organisations (CSOs).

In any country or community, people face different kinds of threats and, as a result, have different security needs. On this basis, the contemporary concept of security needs to take into consideration the diversity of its beneficiaries. For instance, the gender of a person, as well as other characteristics such as age, social class, ethnic group, sexual orientation and affiliation with a clan, a tribe, a caste or a religion, considerably affect his/her experiences and his/her particular security concerns.

This extended concept of security, which places the citizen at the center, forms the basis for the concept of “human security”, as defined by the UNDP for the first time in 1994. In its Human Development Report, the UNDP notes: “The concept of security has for too long been interpreted narrowly: as security of territory from external aggression, as protection of national interests in foreign policy or as global security from the threat of a nuclear holocaust. It has been related more to nation-states than to people”. The report identified seven components to human security: economic security, food security, health security, personal security, political security, environmental security and community security³.

Box 1: Definition of human security by ECOWAS

In January 2008, ECOWAS formulated the following definition of human security in its Conflict Prevention Framework (ECPF):

“For the purposes of the ECPF, human security refers to the creation of conditions to eliminate pervasive threats to people’s and individual rights, livelihoods, safety and life; the protection of human and democratic rights and the promotion of human development to ensure freedom from fear and freedom from want”⁴.

2.2. Security sector reform and good security sector governance (SSR/SSG)

Security sector reform (SSR) is both a political and a technical process of improving the provision, management and oversight of security services⁵. It seeks to apply the principles of good governance to this sector in order to effectively guarantee the security of the State and of people, especially by complying with the principles of civilian and democratic oversight, the rule of law and human rights. Accordingly, SSR enjoins security sector institutions to protect both individuals and the State against any threat to their security. It involves building trust and increasing effective interaction between the various security sector actors, on the one hand, and between these actors and the general public, on the other.

Good security sector governance (SSG) refers to the implementation principles of good governance in the security sector of a state. These principles include accountability, transparency, rule of law, participation, responsiveness, effectiveness and efficiency⁶. Good SSG is therefore a set of good practices that SSR seeks to implement. If particular aspects of security sector governance are able to be quickly changed, achieving good SSG is a long and drawn-out process which involves changing customs and norms, as well as professional practices. Moreover, maintaining good SSG requires SSR to adapt constantly to new emerging challenges for state security and human security.

The parliament's involvement in security sector oversight

3.1. Legal and political bases of parliamentary oversight

3.1.1. Parliamentary oversight of the security sector in ECOWAS countries: situation report

Security can only be effectively guaranteed when it is coordinated in accordance with good governance practices. These practices include oversight of the actions of security institutions, because oversight may not be exercised exclusively by military institutions. Civilian oversight is therefore required, especially to guarantee the transparency and accountability of security service actors. Effective parliamentary oversight of the security sector enables parliamentarians to pass laws consistent with international standards, to vote on budgets in which security sector budgetary allocations are clearly identified and to monitor the government's action in this crucial area of sovereignty.

“There can be no democratic system of government without transparency or accountability. The primary responsibility in this matter rests directly with the Parliament.”

Anders B. Johnsson, former Secretary-General of the Inter-Parliamentary Union (2007).

Parliament has legitimacy, generally arising from the constitution, to exercise oversight of security service' actions. For example, Article 76 of the Constitution of Guinea-Bissau provides that: “The National Popular Assembly is the supreme legislative body and political overseer, representative of all Guineans”⁷. Another example can be found in Article 122 of the Constitution of Ghana, which establishes: “An act or omission which obstructs or impedes Parliament in the performance of its functions or which obstructs or impedes a member or officer of Parliament in the discharge of his duties, or affronts the dignity of Parliament or which tends either directly or indirectly to produce that result, is contempt of Parliament”⁸. Parliamentary oversight is a direct corollary of the separation of executive, legislative and judicial powers.

Box 2: AU and ECOWAS frameworks

The AU and ECOWAS policy frameworks specifically state that parliamentary oversight (and its corollaries) should be an essential part of SSR/G and conflict prevention.

Articles 42, 43 for the AU SSR policy framework:

42. The AU advises Member States to encourage and support their legislatures to oversee the work of the security sector by holding the Executive accountable for the mandates, roles and missions of the security sector. Additionally, the legislature will make and approve laws, rules and regulations of the respective security sector institutions and will establish and mandate specialised Committees to exercise oversight on behalf of the legislature and regularly report thereto.

43. In furtherance of continental integration processes, relevant regional bodies including the Pan African Parliament and Regional Parliaments where applicable, will support national legislatures in overseeing the security sector by providing common normative standards including as contained in this policy. In this regard, the relevant regional bodies will enhance parliamentary capacity to play a watchdog role particularly with respect to regional peace support operations and related security mechanisms.

Articles 41, 42 for the ECOWAS SSR/G policy framework:

41. Member States shall support their parliaments in their tasks of overseeing the functioning of security sector institutions and holding them accountable for their mission and roles. The parliament's roles include:

- a) Enacting and reviewing legislations for security sector institutions,
- b) Exercising oversight of the security sector through parliamentary instruments of questions, debates, requests for information, investigations and site visits;
- c) Establishing and equipping defence and security committees to monitor the functioning of security institutions;
- d) Holding hearings that may be open to the public for transparency;
- e) Requesting periodic reports on security matters from the executive and the security institutions;
- f) Performing others tasks required by national legislations.

42. The ECOWAS Parliament will contribute to the better understanding, dissemination and implementation of common normative standards contained in this Policy Framework."

While all West African constitutions mandate parliaments to perform an oversight function, the scope of this role varies considerably from one state to another. For instance, parliamentary approval of presidential nominees for senior positions in defence and security institutions is not systematically established. Some constitutions, such as the Liberian Constitution (box 3), are, however, more explicit with regard to parliamentary oversight of security sector actions.

Box 3: Importance of explicitly formulating procedures related to parliamentary oversight of the security sector in a Constitution – the case of Liberia

In respect of parliamentary oversight, most constitutions of West African countries are limited to general considerations. For instance, Article 59 of the Constitution of Senegal merely states, without further clarification, that the Parliament "controls the action of the government"⁹. When the security aspects to which parliamentary oversight may relate are specified in the constitution, as in the case of Liberia, this is, by its very nature, likely to draw the attention of parliamentarians and encourage them to effectively exercise this oversight. Indeed, Article 34 of the Constitution of Liberia provides that: "The Legislature shall have the power to [...] provide for the security of the Republic; [...] to provide for the common defence, to declare war and authorize the Executive to conclude peace; to raise and support the Armed Forces of the Republic, and to make appropriations therefore [...] and to make rules for the governance of the Armed Forces of the Republic"¹⁰.

3.1.2. Legitimacy of parliamentary oversight

Parliaments cannot fully exercise this constitutional power unless their members are legitimate representatives of the general public. The systematic under-representation of particular social groups in parliament and its bodies, often based on gender, ethnicity or religion, diminishes the legitimacy of the parliament's decisions and detracts from the effectiveness of its oversight, including of the security sector. That may be the case, for instance, when decisions taken by a parliament with little female representation systematically neglect matters relating to violence against women¹¹. Therefore, each country should strive to increase the level of representation and accountability of marginalised groups within national parliaments.

In West Africa, parliaments are elected assemblies based on the principle of 'one person, one vote' and include members from different political parties. In some countries, special provisions have been instituted to allow balanced representation of particular areas or minorities. In Niger, for instance, in addition to the traditional constituencies¹² of the regions and the Urban Community of Niamey, there are eight so-called 'special' constituencies for areas with ethnic minorities (such as the special constituency of N'Gourti for the Toubous or Tassara for the Arabs) and cultural minorities (such as the special constituency of Bankilaré for the Touareg Bella and Bermo for the Peul Wodaabe)¹³.

3.2. Scope of parliamentary oversight

3.2.1. Parliamentary functions

In West African countries, parliaments provide oversight of the security sector through their core functions as described below:

1. Through their **legislative function**, they pass laws and ratify treaties;
2. Through their **budgetary oversight function**, they scrutinize and approve the annual national budget by ensuring that it is consistent with the country's security policy;
3. **By overseeing the actions of government, they** scrutinize the activities, policies and agents of the executive;
4. **Through their representation function, they** interact with citizens and defend their interests, including on matters of security;
5. Through their role of appointing/approving nominations to senior positions in government, as established in some constitutions, parliaments have power not only to propose, elect or approve candidates for senior positions in the security sector, but also to pass a vote of no confidence against any disapproved individuals;
6. Through **parliamentary diplomacy**, parliaments have the opportunity to adopt best practices from other parliaments in terms of security sector oversight (see chapter 4).

Within the ECOWAS region, the so-called "traditional" functions, namely the legislative function, the budgetary function and the oversight function, are provided for in the constitution of each member state. The power to appoint/approve nominations to senior government positions is only provided for in some constitutions (see paragraph 4.2.4), while there is absolutely no reference to parliamentary diplomacy in any constitution of the region. Moreover, constitutional provisions on parliamentary oversight are not all defined with the same degree of precision. The more explicit a constitution is, the greater the extent to which parliamentary oversight can be unambiguously exercised. For example, a constitution which establishes weekly sittings at which the parliament is able to put questions to the government, such as the Constitution of Burkina Faso¹⁴, sets out a regular timetable of interaction between the parliament and

the executive. Likewise, the details provided by Article 113 of the Constitution of Benin¹⁵ in relation to the government's obligation to explain to the National Assembly any requested aspect of its management and activities may facilitate the work of parliamentarians, including in the area of security (box 4 below).

In view of the importance of democratic oversight for an effective security sector, the constitutions of all ECOWAS countries should be explicit and confer parliamentary oversight powers whose scope is sufficiently extended to include the security sector.

Box 4: Three examples of constitutional provisions which define parliamentary oversight in West African countries

Article 113 of the Constitution of Benin: "The Government shall be obliged to furnish to the National Assembly all explanations which shall be demanded of it concerning its management and its activities. The means of information and of control of the National Assembly on governmental action [shall be] interpellation, the written question, the oral question with or without debate, and not followed by a vote, and the parliamentary committee of inquiry"¹⁶.

Article 111 of the Constitution of Burkina Faso: "During the sessions, at least one sitting per week is reserved to the questions of the members of the Parliament and to the responses of the Government. The Parliament can address to the Government questions on current events, written questions, [or] oral questions with or without debate"¹⁷.

Article 76 of the Constitution of Guinea-Bissau: "The National Popular Assembly is the supreme legislative body and political overseer, representative of all Guineans. It pronounces on fundamental issues of internal and external politics of the State"¹⁸.

3.2.2. The bases of an effective oversight

Parliamentary oversight is a fundamental aspect in the promotion of good security sector governance through the functions exercised by parliaments. Parliaments have three principal powers which enable them to fulfil a unique role in security sector oversight:

- Parliament represents public opinion. It provides the moral and legal basis to guarantee inclusive, effective and legitimate security services. The parliaments of West African countries must ensure that this **representativeness** is as broad as possible, not least in terms of reviewing laws and regulations in order to allow or increase the participation of under-represented groups.
- The parliament is **responsible** for creating laws which promote good SSG, for approving credible budgets and for providing effective oversight of security sector actors. The expectations for parliaments to contribute to the improvement of security sector performance are considerable. West African parliaments exercise their responsibility to varying degrees depending on the country in question, according to the specific constraints they face in terms of capacity, authority or ethics.
- Finally, the parliament offers a platform for public debate on security challenges and policies. On this basis, it helps to increase **security sector transparency**. On account of the co-existence of different political powers within parliaments, especially in the form of opposition groups, parliaments are theoretically spaces of dialogue, open debate and political consensus.

To ensure that the parliament is able to effectively exercise these powers with a view to guaranteeing parliamentary oversight of the security sector¹⁹, five fundamental conditions must be met:

- The state security apparatus is **subordinate to duly constituted civilian authorities**;
- The state has a **legitimate monopoly on the use of force** in society;
- By virtue of the constitution, parliament is solely authorised to **approve defence and security expenditure**;
- Parliament's involvement in declaring and lifting the state of emergency or state of war is essential;
- Security sector institutions are **politically neutral**.

3.3. Features of parliamentary oversight of defence and security services

In a democratic society, parliaments must be allowed to exercise full oversight of all government services and activities, either directly (oversight of services), or indirectly (via ministries which manage them). The aim is to guarantee and protect public freedoms and human rights.

At the same time, the state must also maintain appropriate national security and an intelligence and defence system which is sufficiently developed to effectively protect citizens against terrorist acts and other threats, and generally guarantee national defence. However, in respect of most of these activities, it is essential to maintain a degree of secrecy, not least in relation to the operational aspects of defence and security actions. Despite this requirement, parliament must ensure that security and defence services are functional and carry out their operations within the strict framework of the law. Institutional arrangements must therefore counterbalance these contradictory requirements, i.e. ideally, by providing a sufficient degree of oversight and transparency, while maintaining the required confidentiality.

In the fields of defence and intelligence, standard parliamentary oversight procedures are quickly finding their limits as it is necessary, on the one hand, to exercise actual oversight of these services, such that the freedoms of citizens and the normal functioning of the democratic institutions are maintained. On the other hand, this is to ensure that details of how they function remain secret whenever necessary.

Every democratic system must therefore establish special mechanisms adapted to the conditions of the country, to find a balance between these contradictory requirements and to guarantee that the legality of the services' conduct and actions is scrutinised by the citizens' representatives.

Exercising parliamentary oversight

4.1. The oversight function *stricto sensu*

Reference is made to oversight *stricto sensu* because parliament, acting on behalf of the people, holds the government to account. This activity “covers the analysis, monitoring and oversight of the government’s action, including the implementation of policies, legislation and budgets”²⁰.

4.1.1. To what aspects should oversight relate?

a) Security policies

Parliaments must ensure that governments take the necessary measures to overcome prominent security challenges. For instance, they must scrutinise government policy intended to tackle cross-border crime, terrorism, electoral violence and sexual and gender-based violence. In this respect, effective parliamentary oversight to include gender in an intentional and specific way should be based on the instruments developed by the UN, such as resolutions 1325, 1820 or 1960. Parliamentary oversight also involves examining any actions considered by the executive to control factors which promote insecurity, as well as ensuring the availability of (human or financial) resources so that the security apparatus can function effectively.

In defining security policies, parliament may formulate recommendations to promote international standards and values related to good governance, human rights and the rule of law. It must also verify that the government’s security policy integrates conflict prevention mechanisms, e.g. social dialogue frameworks. The publication of these recommendations (written press, TV, radio, parliament’s website, etc.) is a key factor in guaranteeing the effectiveness of parliamentary oversight. To achieve this level of oversight, the government’s political program must first be presented to the parliament. Some parliaments, such as in Burkina Faso, Ghana and Senegal, have the power to withdraw confidence from the government if parliamentarians are not satisfied with the policy presented to them (including in security matters). Others, with fewer legal mechanisms at their disposal, nonetheless, provide a forum for public debate on government policy. For example, Article 57 of the Constitution of Guinea provides that: “After his appointment, the Prime Minister makes a Declaration of General Policy followed by a debate without vote before the National Assembly”²¹, which was done in June 2018²², for example.

In implementing security policies at the national level, parliament must constantly seek to ensure that the government's action is consistent with the approved security policy. Parliament must therefore use its oversight mechanisms described in the following section to regularly assess the way that security and defence ministries discharge their duties with regard to the established policy.

Parliaments must ascertain the actual needs of the general public, especially by referring to security perception studies. These studies are useful in that they assess the actual extent to which services provided by security forces are effective. They are sometimes produced by civil society organisations (box 5).

Box 5: Study on the perception of IMRAP in Mali²³

In the context of peacebuilding in Mali, between 2013 and 2015 the Malian Institute of Research and Action for Peace (IMRAP) implemented a programme entitled: "Agenda for peace and social cohesion in Mali". The IMRAP report is based on the observation that peace cannot be consolidated without the involvement of the general public at all levels and of all actors of Malian society. The methodology of this programme was therefore chosen with a view to effectively contributing to the identification of fundamental matters relating to peacebuilding and to increasing collective participation as a principal aspect of the democratic process and governance.

Since it was founded, the IMRAP has taken part in important peace events organised in Mali and its sub-region: *assises du Nord* in November 2013, considerations about the consequences of decentralisation in Mali in October 2013, regional training on combating violent extremism in West Africa and the Sahel in January 2014 in Dakar and symposium on the involvement of regional actors in peacebuilding architecture, at UN level, in April 2015 in Accra.

The importance of this self-portrait is that it demonstrates the capacity of Malians, from all regions and all social classes, to take stock of their own situation and to present an analysis of obstacles to peace anchored in Malian realities, their nuances and their interconnections. More than 4,700 people were consulted during this study.

b) Effectiveness and efficiency of security forces

Parliamentary oversight must also seek to strengthen the effectiveness and efficiency of the way in which security forces operate. Parliamentarians particularly seek to promote the effectiveness of human capital in the security sector. For example, they may verify measures which seek to ensure that the organisation and personnel of security forces duly meet the needs expressed in the national security strategy and formulate recommendations, if necessary (box 6). Quality personnel is characterised in particular by its professionalism, skills, professional conscience and respect for laws and regulations. Unfortunately, there are still instances in West Africa where some security officials continue to violate the constitutional order. In August 2018, for instance, members of security forces illegally took control of the Senate in Nigeria and denied elected officials and employees of the institution access to the building for several hours²⁴.

Parliamentarians can make security services more efficient by, for example, ensuring that the missions of each service are consistent with their effective use, especially by ensuring that there is no confusion or overlap between responsibilities. It is not actually uncommon for West African towns to have heavily equipped military personnel patrolling in residential areas already under the surveillance of law enforcement. Parliamentary oversight can help to bring an end to such activities from which insecurity may arise, for instance in the event of clashes between elements of the army and law enforcement. This was the case in 2014 in Marcory, a municipality located in South Abidjan in Côte d'Ivoire²⁵, and in 2018 in Tamale in Ghana²⁶. ECOWAS parliaments must ensure that clear legal frameworks related to the missions of the various defence and security forces are implemented and applied. Two examples are the 2016 Acts on military programming²⁷ (box 7) and domestic security force programming in Côte d'Ivoire²⁸.

Box 6: Personnel management - important points for parliamentarians²⁹

Parliaments must oversee the creation and maintenance of the professional security services system. They must ensure that personnel management plans are devised and deployed with the aim of establishing a democratic and professional workforce.

Parliaments must therefore take the following key points into account when considering any government proposal relating to the management of defence and security force (DSF) personnel.

- **General policy:** are policies relating to personnel management and to the structure of forces realistic and feasible in relation to the budget and the national economy?
- **Workforce and general conditions:** maximum workforce for DSF, ceilings per rank, workforce by grade, social consequences of dismissals, etc.
- **Recruitment and selection:** open to all citizens and inclusivity according to the law, professionalism criteria applied to the selection of candidates.
- **Filling of positions:** respect for the prioritised principle of merit with regard to recruitment, promotion, transparency and incompatibility with other positions.
- **Remuneration:** DSF personnel salary levels, in relation to other public and private sector occupations, regularity of pay, transparency (merit and quality), pension and retirement systems.

Box 7: Scope and effectiveness of the Military Programming Act in Côte d'Ivoire (2016 – 2020)

The Ivorian army has undergone some upheaval since the economic crisis in the 1980s, especially in relation to the grade and age pyramid, the training of soldiers, living and working conditions, equipment and cohesion. Côte d'Ivoire was also affected by other crises which not only exacerbated the upheaval by which the army was concerned and destroyed infrastructure and equipment, but also weakened the chain of command, instrumentalised the army, changed the esprit de corps and affected the operational capacity of the military.

In view of this reality, Côte d'Ivoire passed a military programming act for the first time in 2016. It was formulated with the cooperation of the Defence and Security Committee of the Ivorian National Assembly.

Enacted on 11 January 2016 by the National Assembly, this act provides a five-year vision (from 2016 to 2020) based on the improvement of the living and working conditions of soldiers, the establishment of missions and budgets, the reorganisation of command, the consolidation of the institutional framework and the professionalisation and command of the workforce. The aim is to reach proportions of 5% officers, 25% non-commissioned officers and 70% troop ranks. The implementation of this act seeks to provide Côte d'Ivoire with a suitable defence mechanism which can be used to ward off domestic and external threats. It must also equip the Ivorian army to take part in UN peacekeeping activities around the world.

According to the Minister of Defence³⁰, the repercussions of this act have already been felt: new, single chain of command, voluntary departures of particular soldiers, effective involvement of the Ivorian army in UN peacekeeping activities, reform of military training and creation of new training institutions, improvement in working and living conditions based on the production of infrastructure and procurement of material and equipment, etc.

c) Compliance with democratic standards

Parliamentary oversight also enables parliament to increase the degree to which the security sector complies with democratic standards. In several ECOWAS countries, security forces have defied the constitution to effect changes of government by coup d'état, which represents a serious threat to democracy. To avoid any such crisis, parliaments can make sure that the Code of Conduct of ECOWAS for military and security services³¹ is implemented. They could also stipulate that training programmes related to essential values and standards in security sector institutions must be held on a regular basis,

and ensure that military ethics are based on voluntary obedience sustained by appropriate codes of conduct. In the event of a violation, parliamentarians must be authorised to conduct an inquiry and, if necessary, ensure that the competent body immediately imposes applicable penalties.

Box 8: Supplementary Act relating to a Code of Conduct for the Armed Forces and Security Services of ECOWAS³² (extracts)

Relations between civilian and military authorities

Article 1: Inviolability of national integrity

“Their personnel is recruited and managed without discrimination on the grounds of race, sex, ethnicity, region or religious affiliation”.

Article 2: Supremacy of civilian authority

“The military and security services are at the disposal of the constitutionally established political authority and subordinate to constitutionally and democratically elected authorities. Authorities and political groups must refrain from meddling in the operations of the military and security services and from allowing political bias to dictate their decisions. The personnel of the military and security services adopt a strictly neutral position in relation to political matters”.

Article 18: Guaranteeing the expression of basic human rights

“The civilian, political or administrative authority should not, under any circumstances, engage the military or security services to restrict the peaceful, legitimate or legal exercise of any individual or collective rights of citizens under the Constitution”.

Human rights

Article 4: Assertion of human rights and international humanitarian law

“In the conduct of security and defence affairs, the defence and security personnel must respect international humanitarian law, human rights and any relevant national laws [...]”.

Article 12: Avoidance of violations of human rights

“Every individual has the right and duty to denounce and resist any violation of their legal and constitutional rights. [...] Competent courts must be ready to rule on complaints filed by citizens related to the violation of their human rights or rights to property”.

Democratic oversight

Article 19: Transparency and accountability in security management

“The democratic oversight of the military and security services by state institutions (executive, legislative and judicial powers) and by ECOWAS institutions must be exercised with transparency and accountability, particularly in defence and security planning, budget and procurement processes”.

d) Serious circumstances

Parliaments generally exercise their responsibility by taking major decisions on security matters during serious circumstances as established in the constitution. By and large, they have the power not only to approve a declaration of war and an extension to a state of siege and to a state of emergency, but also to approve the deployment of troops in a foreign country as part of regional security missions and international peacekeeping missions (ECOWAS, AU, UN). However, the latter approval, which is part of the parliament’s constitutional remit, is not generally given until after troops have been effectively deployed by the government. Excluding cases of extreme urgency as established in constitutions, this practice is a serious violation of the principle of separation of powers as the parliament is not consulted before the fait accompli.

e) Oversight of budgets and procurement

Parliaments must also exercise oversight of the use of budgets allocated to the security sector. They must be able to detect any cases of misappropriation and corruption in the security sector, to lead inquiries and to formulate recommendations to resolve any existing issues. Transparency International reports indicate that security institutions, especially the police and justice, are beset by corruption in various ECOWAS countries³³, but few initiatives have been undertaken by parliaments to remedy this situation. Parliaments must review the accounts of security services and make sure there are no cases of over-invoicing in orders or under-invoicing in the sale of goods and services, fictitious purchases (goods ordered but not supplied) or favouritism via exclusive clauses which seek to eliminate competing bidders from calls for tender.

Parliaments must also ensure that expenditure is consistent with budgetary forecasts, not least to prevent overrun or the use of funds for any purposes other than those established in the documentation presented in support of the budget vote request. They must also ensure that transparency principles are applied to budget implementation, especially in public procurement processes.

To effectively scrutinize the budget, parliament can rely on external expertise such as the Auditor General in Anglophone countries or the Court of Auditors under the Francophone system. The Burkinabe Court of Auditors, whose mission is to “issue an opinion on public accounts, to penalise mismanagement and to assist the National Assembly in scrutinising the implementation of finance bills”³⁴, has enough investigative capacity to provide Parliament with any information it needs to scrutinise budget implementation.

The parliament may be entitled to organise and conduct, on its own initiative, financial audits based “on documents and on-the-spot”, including (but not limited to) via committees of inquiry.

Parliament can also use any information provided by civil society organizations active in the fight against corruption and misappropriation of funds. In West Africa, such organizations include: Social Watch/Citizen Oversight of Benin³⁵, the Initiative for social justice, transparency and good governance in Côte d’Ivoire³⁶, the Ghana Integrity Initiative³⁷ or the Centre for Transparency and Accountability in Liberia³⁸.

Finally, parliaments must always assume their responsibility to exercise oversight of the government’s action in relation to all other aspects of the security sector, including matters relating to the procurement of weapons and equipment. In this regard, Parliament has the responsibility of ensuring that the procured weapons are not used to equip external forces. In 2012, for instance, the Group of Experts appointed by the UN Security Council was “seriously concerned by the recurring discoveries in Côte d’Ivoire of weapons and related materiel initially sold to Burkina Faso”³⁹.

f) The role of parliament in preventing, defeating or resisting the violent overthrow of civilian governments

The role of parliament in preventing, defeating or resisting the violent overthrow of civilian governments (or politically motivated activities of armed and security forces) is mostly important as its external oversight capacities are a shield to ensure political and constitutional continuity. Constitutions typically put drastic limits (duration, renewal) on the use of emergency powers by the executive. The parliament is usually consulted at the initial stages for approving the renewal of the emergency period. It is expected that the constitution and laws should prevent the executive from declaring a state of emergency for a party’s political motives. In addition, the constitution and relevant laws should declare military coups unconstitutional.

In West Africa, the constitution of every state outlaws military coups, although military regimes usually suspend the operative sections of the constitution by decree. Some emerging democracies with a history of authoritarianism have adopted special provisions in the constitution that would prevent the country from sliding back to authoritarian rule through unconstitutional means, for example with the help of the military. For example, Nigeria’s Constitution of 1999 starts with the so-called ‘anti-coup’ article:

“The Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution. (Constitution of Nigeria, 1999, Art. 1.2). While a constitutional article like the one mentioned above most certainly will not stop the military attempting a coup d’état, this and other constitutional provisions help to undermine the legitimacy of future coups.

Box 9: Why should parliamentarians take an interest in the procurement of weapons and equipment⁴⁰?

- Public funds are at issue.
- The choice of weapons systems is not merely a technical or a security issue. It is primarily a question of determining whether financial resources should be allocated “to arms or food”. If they are allocated to “arms”, we must then ask which ones, how many and why?
- Weapons purchases should not be a short or long-term financial burden for the country in question.
- The parliament must therefore strike a balance between defence expenditure and social needs.
- Transparent public markets, regulated by the parliament, help to prevent corruption, profligacy and misappropriation of public funds.
- Parliamentary and citizen oversight sometimes makes it possible to curtail the regional arms race.

4.1.2. Parliamentary oversight mechanisms

The parliaments of ECOWAS countries have several instruments at their disposal, as established by the Constitution, which are used to fulfil their security sector oversight function⁴¹.

a) Parliamentary questions and interpellations

Parliament has the power to submit an official request for information or clarification to the government in relation to a national security policy. In the event of a disagreement between the government and the legislature, any such interpellation may, in some circumstances, result in a vote of no confidence. In all countries, the seriousness of the disagreement may be such that a motion of no confidence may be tabled and passed.

Parliamentarians may also put oral or written questions to the government, either on its general national security policy or on operations in a specific security department. In April 2016, for instance, a representative of the National Assembly of Burkina Faso asked the Minister of Internal Security an oral question with debate in relation to the government’s strategies to combat insecurity⁴².

The oversight process will only be effective if it follows a coherent sequence of events starting with information gathering, monitoring and evaluation, legislative-executive dialogue and recommendations by parliament.

Regardless of the aspect of the security sector under consideration, parliamentary oversight can only be effective if it follows a particular working methodology. The following diagram proposes a four-phase oversight process.

Box 10: The four-phase oversight process



Parliamentarians can increase the effectiveness of oral questions by asking well-informed questions. Parliaments can organise for parliamentarians to visit particular sites to observe security problems up close and collect information which may be useful in preparing questions. The unrestricted access by parliamentarians to personnel, documents and infrastructure is an essential condition if this authority is to be effectively exercised. The issue of clearance of members of parliament and personnel and parliamentary experts (access to sensitive facilities, information classified as “secret”) will be discussed below.

At the end of parliamentary questions and interpellations, the best approach is to submit recommendations to the government to remedy the problems, as adopted by the Parliament of Burkina Faso in 2018 (box 11).

Box 11: Example of oversight of the government's security action⁴³

At a parliamentary session held in Burkina Faso in September 2018, representatives questioned ministers and high-ranking military personnel with a view to producing a report and recommendations on security problems. An ad-hoc committee was established to conduct the hearing. Following this session, a report containing recommendations was produced. In October 2018, the Speaker of the National Assembly, alongside the Chairman and Rapporteur-General of the ad-hoc committee, and presidents of parliamentary groups, submitted the report to the President of the Republic and asked him to take steps to ensure that the recommendations are implemented.

The fact that the Speaker of the National Assembly was assisted in this hearing by presidents of parliamentary groups, which include members of the opposition, demonstrates the transparency with which security questions are addressed in the Parliament of Burkina Faso. According to the Speaker: “In the fight against insecurity, there is no opposition or majority. There is only the motherland”.

b) Parliamentary inquiries and hearings

Parliamentarians, and especially members of the defence and security committee, may summon security sector actors to a hearing for a variety of reasons. The hearing may seek to gather information for the purpose of reviewing a draft bill or preparing an oral question, for instance. Parliamentarians can also ask for any relevant documents to be submitted so that they can make better-informed choices. Any information collected during the hearings, along with any taken from other sources, is analysed by the committee. This procedure may result in the formulation of recommendations or the production of a report.

Parliaments are authorised to establish committees of inquiry to address any particular security matters, e.g. if acts of corruption or serious human rights violations are suspected, or to assess the capacities of security sector institutions. Depending on the problem and seriousness of the facts, the subsequent recommendations may suggest administrative and/or criminal sanctions against perpetrators, demand the recovery of misappropriated funds and compensation for victims and advocate preventive measures to avoid any repetition of this situation in the future.

In practice, however, it is unusual for parliamentary committees of inquiry to be established for the purpose of addressing security matters in West African countries. There is an abundance of issues to be examined. In Côte d'Ivoire, the army was affected by two cases of mutiny in January and May 2017 which could have been subjects of a parliamentary inquiry in accordance with the wishes of representatives, not least Defence and Security Committee members⁴⁴. Requests for parliamentary inquiries on security issues or the reports of these inquiries will not be acted upon in the absence of a broad political will, and real independence of the Parliament vis-à-vis the Executive.

c) Parliamentary debates

Where permitted by the constitution, parliaments hold debates in plenary sessions, with or without the presence of a member of the government, to address any security matters chosen by parliamentarians or proposed by the Leadership, to assess the reports of committees or to address a motion to reconsider a question to which the government has not responded within the established deadline or whose response is deemed to be inadequate. Parliaments are also authorised to hold a debate following a state of the nation's address to Parliament by a President (in Anglophone countries) or a Prime Minister (in Francophone countries), including in the field of security. Such a debate was held in June 2016 in the Parliament of Burkina Faso on the occasion of the Prime Minister's speech on the country's situation⁴⁵.

It is now standard practice for security questions to be raised and debated in parliaments without any official directive or follow-up. Effective oversight is dependent upon the parliament's formulation of guidelines to regulate the debate and follow up security matters.

d) Motions of no confidence and indictment votes

In some countries, such as Burkina Faso, Ghana and Senegal, parliaments have the constitutional power to withdraw confidence in the overall government and organise votes of no confidence against individual ministers. A vote of no confidence may cause the government to resign. For instance, a motion of no confidence passed against the Prime Minister by the Parliament of Guinea-Bissau in March 2007 led to the appointment of a new Prime Minister and a government of national unity, thereby bringing an end to the country's month-long institutional crisis. Some West African parliaments also have the power to indict a member of the government on the specific grounds established by the constitution, if acts of high treason or extremely serious crimes have been committed.

In practice, the provisions on indictment and no confidence are difficult to implement in the context of an imperfect separation of powers, as the executive controls the other branches in a number of ECOWAS countries.

4.2. Other parliamentary functions which may contribute to security sector oversight

Although the representative, budgetary, legislative, elective and parliamentary diplomacy functions are, strictly speaking, different from the oversight function, they do contribute to it. In short, they broadly allow parliament to exercise oversight of the security sector. For instance, exercising the elective function enables parliamentarians to verify the capacity of candidates nominated by the executive to positions of responsibility in the security sector.

4.2.1. The representative function

Parliament provides a forum for debate on public security concerns and ensures that the issues emerging from this debate are taken into account in national security policy and related instruments, such as the military programming law. This function is carried out in the following specific ways:

a) Public communication

As a principle of good governance, democratic oversight is not effective unless citizens are informed and made aware of the important issues debated in parliament. Parliamentarians must therefore publicly reveal particular information about security and ensure that its quality is sufficient to allow citizens to understand the security decisions made by their representatives.

One of the means used to guarantee this process is live broadcasting or pre-recorded plenary sessions and parliamentary committees related to security issues. Parliaments must also publish particular documents. The advantage of publishing a full account of plenary session proceedings, inquiry reports and the work of parliamentary committees is two-fold. On the one hand, it enables parliament and its committees to publish information about corresponding activities. On the other hand, it encourages the general public to participate in the oversight of the security sector.

To this end, it is recommended that every parliament should have its own communication tools, such as a radio-television channel, a studio, imaging and sound recording equipment, a website and social media accounts, as well as an official gazette of the institution. A number of West African parliaments now have such capability. The Malian National Assembly, for instance, has created a parliamentary radio station to share information with citizens, facilitate discussions between representatives and citizens and enable representatives and experts to debate various topics intended for citizens, including those related to the security sector⁴⁶.

However, the supply of information on communication channels is all too often incomplete and desultory, as seen, in particular, on the websites of parliaments. For example, there is a distinct lack of information on laws enacted by parliamentarians since 2017 in the “Enacted Laws” section of the website of the National Assembly of Côte d’Ivoire⁴⁷ or on laws enacted between 2015 and 2016 in the “Bills” section of the website of the National Assembly of Senegal⁴⁸.

It is obvious that secret information or confidential operational aspects of state policies must continue to be protected for reasons of effectiveness or for the purpose of protecting the agents involved. However, a transparent and precise procedure, defined by law, must identify the person responsible (Prime Minister, Minister of the Interior, Minister of Defence), and the method that should be respected to cover particular confidential information or, on the contrary, lift this prohibition of publication. There are several methods which guarantee that the parliament, as an institution, has access to this classified information. These methods are described below.

The shortcomings of parliamentary communication in West Africa are as a result of a combination of factors. These include budgetary problems, lack of equipment, limited human resources and, a lack of political will on the part of the Leadership of parliaments to prioritise the publication of parliamentary work. Parliaments must therefore set a greater store to public communication. On this basis, not only

should appropriate funds be allocated for equipment and the functioning of communication services, but steps should also be taken to ensure that these services are coordinated by sufficient and competent human resources to publish information about the work of the parliament. An appraisal of every parliament would precisely identify the causes of the shortcomings and propose suitable solutions.

b) Interaction with citizens.

Parliamentarians must be available and accessible to their electorate so that their security concerns can be heard. Parliament could facilitate this contact by arranging a number of free days during the session, which are in addition to parliamentary holidays, so that they can visit their constituencies and hold discussions with their electorate, particularly in relation to security matters. Parliamentarians can hold activities, in their constituencies, which is another way of promoting this interaction. Parliaments can also arrange meetings between their members and representatives or local and civil society groups.

Parliaments can also task defence and security committee members on an ad-hoc basis to ascertain the concerns of the general public in relation to a specific matter. In Côte d'Ivoire, for instance, following inter-communal clashes in the city of Bouna (Boukani region), a parliamentary mission consisting of six representatives spent three days on site in January 2016. In addition to expressing the institution's sympathy for the population of this municipality, the mission also sought to determine the causes of the violence, which has already resulted in several deaths, injuries and displacement.⁴⁹

Interaction between the parliament and citizens can also take the form of petitions. This practice already exists in some parliaments. e.g. Article 118 of the Constitution of Burkina Faso provides that: "The agenda of each Chamber of the Parliament consists of the discussion of the popular petitions [...]"⁵⁰. Both chambers of the Parliament of Nigeria have a standing public petition committee.

4.2.2. The budgetary approval function

4.2.2.1. Guiding budgetary review principles

Parliament passes the finance bill, which sets out the budget allocated to the security sector. The budget, much more than a simple technical instrument presenting the state's revenue and expenditure, is the government's most important political document throughout the year. This instrument is actually key to guaranteeing transparency, accountability, exhaustiveness and good governance. By outlining projected expenditure, it enables the parliament and the general public to be aware of where money is spent and therefore promotes transparency⁵¹. The effectiveness and efficiency⁵² of the security sector action to be taken are key elements to be taken into consideration during the budgetary review process.

As far as parliamentarians are concerned, it is important to bear in mind that the concept of efficiency is not systematically synonymous with the reduction of expenses. Box 11 provides an illustration of this. Another example is the 41% increase in the security budget of Benin for 2017, on the basis of the need to merge the police and the gendarmerie into a single domestic security force by virtue of Act no. 2017-41 establishing the Republican Police⁵³. Whenever parliamentarians review a security sector budget, they must focus, first and foremost, on the results that it seeks to achieve. A slight increase in available funds sometimes significantly increases results. However, when the state's budget is limited, parliamentarians must also comply with the principle of a balanced budget, especially since the choices between security, education, health and other priority sectors are difficult and characterised by far-reaching consequences.

Box 12: Example of a justified substantial increase in the security sector budget in Liberia

In late 1989, the security situation in Liberia spiralled out of control as the country descended into a civil war which would last for 14 years. Established by UN Security Council Resolution 1509 (2003), the UN Mission in Liberia (UNMIL) was tasked with assisting the government to build peace and stability, to protect civilians and to promote the national security reform effort. With an initial task force comprising 15,000 military personnel and 1,115 police officers, the UNMIL oversaw a substantial part of the country's security. In the lead-up to the progressive withdrawal of UN peacekeeping forces from Liberia in the decade beginning 2010, the government had to increase its expenditure allocated to the security sector by more than 80% between 2009 (36.7 million dollars) and 2012. This increase included necessary adjustments to public expenditure to allow security agencies to fully discharge their duties as the UNMIL progressively withdrew from the country⁵⁴.

From a security perspective, the budgetary review in Parliament enables parliamentarians to examine the balance of budgets allocated to the various sectors, not least the ratio of the security budget to the overall budget. Parliamentarians also ensure whether the projected actions and annual expenditure of the defence and security ministries are in keeping with the national security policy. They must also ensure that the principles of transparency are applied to the preparation of the budget, especially by verifying that the budget headings relating to the security sector are comprehensive and complete. Parliaments may, for instance, refuse credit for any budget headings which are not clearly justified.

Sustainability and financial viability are also aspects which parliamentarians must bear in mind during the budgetary review process (box 13). These matters may be of particular concern as the end date of international security sector support programs draws closer, for instance. The best approach would be to ensure that the budget gives a multi-annual estimate of revenue and expenditure, as in the case of Burkina Faso⁵⁵ or Côte d'Ivoire⁵⁶. In general, parliamentarians must ensure that human security is at the heart of any action for which a budget is requested.

Box 13: Passing a sustainable budget is a responsibility of the Parliament in the budgetary process

Parliaments must ensure that security sector budgets are sustainable and viable, especially in countries emerging from conflict. Issues of this kind were raised, for instance, in Côte d'Ivoire in 2017. Since 2013, the country has steadily increased its defence budget with a view to "reinforcing and adapting the structural means of the army in the manner of modern armies. {This will be reflected in Côte d'Ivoire's strong participation in conflict prevention and management mechanisms in the subregion}"⁵⁷. Thus, in relation to 2016, the initial budgetary act provided for a 23% increase in the 2017 defence and security budget⁵⁸. In light of an economic crisis consecutive to the steep decline in global cocoa prices, the Ivorian government decided to reduce its expenditure. The defence budget was therefore slashed by 19% for the same year of 2017⁵⁹.

4.2.2.2. Preparation of budgetary review reports

A budgetary review requires skills which parliamentarians do not necessarily possess, for instance in the field of taxation or public finances. To remedy these shortcomings, parliamentarians can engage the services of experts of the Court of Auditors or equivalent institutions, or civil society specialists. They can also use the documentation produced by these institutions, including their analyses of the budget and progress to its implementation in relation to the previous budgetary year.

In parliaments, the finance and budget committees are generally the pivotal point in any budgetary review process. But the defence and security committee should also be consulted to ascertain its opinion on the

budget headings relating to the security sector. The preparation of budget review reports is an important stage in the process. It requires parliaments to access many documents and question various actors. On this basis, parliaments must be given sufficient time to analyze the budget. They must therefore ask the government to submit budget bills in strict observance of the established timetable.

Box 14: An effective budgetary process⁶⁰

In a bid to guarantee an effective and transparent budgetary process, a number of principles must be respected:

- **Prior approval:** the Parliament must approve the government's expenditure.
- **Unity:** all expenditure and revenue must be presented to Parliament in a single consolidated budgetary document.
- **Frequency:** the government is required to present the budget every year to the parliament by a specific deadline.
- **Specificity:** the name and description of every budget heading must provide a clear insight into the expenditure of the government.
- **Legality:** all forms of expenditure and activities must be lawful.
- **Legible structure:** the government is required to submit to parliament a plan of estimated expenditure which is legible and intelligible to all parliamentarians.
- **Completeness:** the state's budget relating to the various aspects of the security sector must be exhaustive and complete.
- **Publication:** every citizen must be able to form an opinion, or even express an opinion, about the budget. This rule means that budgetary documents must be widely disseminated.
- **Homogeneity:** clear links must be established between policies, plans and budgetary inputs/outputs.
- **Resources and purposes:** the budgetary explanation must provide a clear insight into the aims of the budget in terms of: a) resource inputs; b) performance or capacity objectives to be met and c) results that can be verified in relation to plans.

4.2.3. The legislative function

The parliaments of West African countries exercise their legislative function by analysing and voting on draft bills initiated by governments, on the one hand, and private members' bills, on the other. Although most West African constitutions clearly establish that the initiative of legislation belongs concurrently to the government and to the parliament⁶¹, the prevailing practice in the region, as in most countries with a parliamentary system, currently involves carefully examining draft bills submitted by the government.

When a draft bill relating to the security sector is submitted to parliament, the defence and security committee's involvement in the process to examine the draft is crucial. As it examines the merits, it gathers information from documentation and the hearing of various security sector actors, analyses the draft in detail, proposes amendments and advises the plenary session either to reject or pass the draft bill. Any substantive amendments proposed by the committee must be reasoned, for example, by a desire to align national legislation with international conventions and agreements ratified by the government and to guarantee its compliance with national security policy and international security standards, such as the principles of human rights, good governance, transparency and access to information. The parliament may also consult other committees. During any debate on committee reports in a plenary session, good practice dictates that observations of opposition groups should be borne in mind. Thus, Article 55 of the Rules of Procedure of the National Assembly of Mali provides, for instance, that "the opposition shall have at least a quarter of the time during plenary discussions, allocated to parliamentarians from the opposition"⁶².

In security matters, the legislative function can only be effectively exercised if the parliaments of West Africa assert their independence vis-à-vis external actors, not least the executive. Guaranteeing a secret vote for certain laws, as established in Article 104 (para. 4) of the Constitution of Ghana for “project amendments to the Constitution”⁶³, is the best way of making sure that parliamentarians are able to vote freely.

West African parliaments should also make a bigger effort than they currently do to exercise their power to initiate the drafting of private members’ bills or amendments to existing acts.

Parliaments also have the power, as established in the constitution of every country, to ratify certain bilateral and multilateral agreements, including in the field of security. The particular feature of this ratification process, in relation to standard legislative practice, is that the agreement cannot be amended. The power devolved to parliament therefore involves approving or rejecting the ratification. Parliament is also responsible for submitting its comments to the government on specific clauses or on the agreement as a whole and for formulating recommendations on the agreement implementation measures. These recommendations may include the transposition of the undertakings contained in the agreement into the national legal framework. The ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials⁶⁴ is an example of this kind of agreement. Parliaments can make sure that transposition processes from various conventions into the national legislations of the various ECOWAS countries are accelerated, as was the case in Sierra Leone (box 15).

Box 15: Example of exercising the legislative function to ratify a multilateral agreement and transpose its content into national legislation

The Sierra Leonean Parliament ratified the ECOWAS Convention on Light Weapons in 2007. The Parliament then contributed to its implementation by enacting the National Commission on Small Arms Act in 2010⁶⁵. In this context, the Parliament paved the way for improved coordination in actions seeking to monitor the production, circulation, possession and sale of small arms with a view to improving human security in Sierra Leone. In 2012, the Parliament also passed the Arms and Ammunition Act⁶⁶ to provide security sector actors with a legal framework to regulate oversight operations, which particularly provides for the marking and registration of weapons held not only by public officials, but also by civilians⁶⁷.

4.2.4. The elective function

When applied to the security sector, the elective and appointment approval function is one of the main oversight tools used by parliaments to choose the most suitable candidates for senior positions, and to overcome other challenges especially in terms of inclusion.

To effectively perform this function, parliaments must conduct the approval process in the most transparent way possible. They must therefore produce procedural manuals which define, among other things, objective parameters or criteria for confirming or rejecting the candidates presented by the executive. The approval of candidates should take into consideration key indicators such as professional experience, ability and skills, leadership, integrity, morality, honesty and initiative. Throughout the approval process, parliaments must thoroughly vet the corresponding candidates. To this end, their decision may be based on hearings and documents submitted by candidates, including their CVs, and on other relevant information provided by a variety of sources. Some parliaments, e.g. those of Ghana and Sierra Leone, develop expertise for this function, particularly by setting up standing committees to collect and analyse information on candidates and prepare reports for the plenary session⁶⁸. In Sierra Leone, the general public is invited to ask questions. This is also a good approach to adopt as it improves the candidate vetting process in the parliament.

In some ECOWAS countries, the constitution provides for a relatively high number of positions in the security sector whose candidates must be approved by the parliament before their appointments are confirmed. This is particularly the case in Nigeria and Sierra Leone. This approval relates, for instance, to Commanders of the Armed Forces, and the Inspector-General of Police in Sierra Leone (Article 153 of the Constitution⁶⁹). Conversely, there are also countries whose constitutions provide for very little parliamentary involvement (case of Benin) or none whatsoever (Burkina Faso, Guinea) in the appointment process. In countries where the parliamentary approval of candidates is not yet firmly anchored in administrative practice, the choice of security sector leaders based solely on executive power may inhibit the effectiveness of a sector where the required skills and the people able to put them into practice them should be selected through a broad based consensus. Here is a non-exhaustive list of security sector positions whose occupants should be approved by the parliament prior to their appointment by the president of the republic:

- Military commanders and their deputies;
- Inspector-General of police and his/her deputy;
- Head of national intelligence service and his/her deputy;
- Ombudsman;
- President, vice-president and judges of the supreme court;
- Presidents of courts and tribunals;
- Auditor-General;
- Members of national security sector councils

Box 16: Exercising the elective function for security sector actors - the case of the Sierra Leonean Parliament

Sierra Leone is one West African country whose Parliament has broad constitutional powers to approve candidates nominated by the President of the Republic, including some security sector actors. Candidates actually require parliamentary approval for the positions of auditor-general, president and judge of the supreme court, ombudsman, military commander, inspector-general of the police and two members of the judicial and legal committee.

On 4 May 2018, for example, the Sierra Leonean Parliament approved several candidates, including one to the position of Deputy Defence Minister. The report presented to the plenary session by the appointments and public service committee indicated that: "The committee conducted its hearing in accordance with established procedures. Candidates were asked questions about their education [...] and their experience to ensure that they are suitable to effectively manage a department. Other questions put to candidates concerned a number of problems related to their professional background in the public service and other relevant work situations, their declared assets, their tax obligations and their vision"⁷⁰.

The Parliament of Sierra Leone guarantees a transparent approval process in two ways: on the one hand, it authorises the general public to ask questions about candidates, and, on the other, it broadcasts the hearings⁷¹.

4.2.5. The parliamentary diplomacy function

Parliamentary diplomacy is a practice arising from the initiative of parliaments, especially by supporting and participating in the activities of inter-parliamentary organisations, and from the development of relations of bilateral cooperation with other parliaments. The parliaments of ECOWAS countries engage in regular contact with foreign parliaments in order to share experiences and ideas on matters related to the management and parliamentary oversight of security policies. Parliaments also use parliamentary diplomacy to nurture relationships of trust between peoples and, on this basis, improve cooperation to

find solutions to common security-related issues (e.g. terrorism). Parliamentary diplomacy provides a platform to create, extend and strengthen partnership networks. It is exercised in a number of different ways.

a) Activities of national parliaments within inter-parliamentary organisations

It is very useful and beneficial for ECOWAS parliaments to join these institutions. These organisations are the Inter-Parliamentary Union, the African Parliamentary Union, the ACP-EU Joint Parliamentary Assembly, the Parliamentary Assembly of Francophonie (APF), the Commonwealth Parliamentary Association, Parliamentary Union of Member States of the Organisation of Islamic Cooperation and the West African Assembly Presidential Conference. Deploying the same delegations to carry out all activities organised by any given inter-parliamentary organisation is beneficial in that it enables expertise on the particular issue within parliaments to be developed within parliaments. Parliaments must also take steps to ensure that their delegations prepare and deliver clear messages and actively contribute to debates. For instance, one of the items on the agenda of the meetings of the African Regional Assembly of the APF has traditionally been the security situation in the Francophone space of Africa. These sessions give Francophone West African parliaments the chance not only to broaden their experiences, but also to forge, by way of resolutions and declarations, common positions on particular security matters. On 1 November 2018, for example, a high-level meeting of Francophone parliamentarians was held in New York under the aegis of the APF. The meeting comprised delegations from Benin, Burkina Faso, Mali and Guinea-Bissau. The parliamentarians debated the role of elected officials in the context of Sahel security and adopted the “Appel de New York sur le G5 Sahel”⁷², as proposed by the President of the National Assembly of Burkina Faso.

b) Development of bilateral cooperation with other parliaments

These bilateral relations can be established at the behest of the parliament in general, or even of a committee responsible for security matters. Parliamentary visits to other parliaments or welcoming delegations from foreign parliaments allow information on security matters to be exchanged. For instance, in November 2017, the President of the European Parliament delivered a speech to the National Assembly of Côte d’Ivoire. It is important for the various parliamentary missions to be formalised in written reports or reviewed in a plenary session, so that decisions can be made on how to monitor any action taken on recommendations.

The obligation to report to the plenary session is not systematically put into practice. Many rules of procedure give committees (in our case security committees) the power to forge bilateral relations particular to their area of interest. In this case, the mission report is discussed and adopted by the committee. Some rules of procedure establish that the publication of the report triggers the start of a period in which some members of parliament (or senators or members of one or more political groups) can demand a debate and a vote on this report in a plenary session. If this option is not exercised, the report and its conclusions are deemed to be adopted on behalf of the entire chamber.

Box 17: Importance of reports of parliamentary missions carried out in a foreign country

It is important to produce a report for every mission carried out by parliamentarians in a foreign country. These reports can be presented to a plenary session or a committee and their content can be debated in order to formulate any recommendations. For instance, following a work visit of the Nigerian Senate’s President to Germany in March 2017, a mission report was presented to the plenary session and recommendations were adopted, one of which related to the security sector: “The Senate will consolidate bilateral relations between Nigeria and Germany particularly in the fight against the terrorism of Boko Haram”⁷³.

c) Possibility of authorising parliamentary friendship groups to debate matters of security

Parliamentary friendship groups also establish frameworks so that parliaments can share experiences and ideas. In February 2018, for instance, the France-Niger parliamentary friendship group of the French National assembly visited the Niger-France parliamentary friendship group of the National Assembly of Niger. On that occasion, terrorism-related matters were discussed. However, these friendship groups cannot be truly effective unless parliaments improve the ways in which they are organised and operate. In West Africa, the degree to which these friendship groups are considered important varies significantly from one parliament to another. In some countries such as Burkina Faso, Guinea-Bissau, Mali and Niger, the formation of these groups is provided for in the Rules of Procedure of the Parliament. However, in some other countries, no official text appears to regulate their formal existence. Unless the formation of these friendship groups is provided for in all rules of procedure, they are not deemed to be formal. Parliaments must also establish texts on the terms and conditions of their constitution, their composition and their functioning, and require that their activity reports should be submitted to the parliament's bureau and presented, if necessary, in a plenary session, which would determine how best to proceed in light of the various recommendations made. Matters could therefore be referred to the defence and security committee by the plenary session to ensure the follow-up of any action taken on security-related recommendations formulated by a friendship group.

d) Support of partner inter-parliamentary organisations to hold meetings on security matters.

The parliaments of ECOWAS countries can request the support of partner inter-parliamentary organisations to arrange inter-parliamentary meetings for the purposes of reporting on and discussing security matters. For example, at the request of the National Assemblies of Guinea and Mali, the APF, with the support of the International Organisation of La Francophonie, organised a parliamentary information and exchange seminar in September 2017 in Conakry, Guinea. It was intended for Guinean parliamentarians and a delegation of Malian members of parliament and was also attended by French and Cameroonian parliamentarians⁷⁴. In the context of this seminar, the parliamentarians of the various countries represented were able to discuss the subject of parliamentary oversight of security systems, share their experiences and compare their institutional systems.

Principal obstacles to parliamentary oversight

In exercising their oversight function over the security sector, West African parliaments face a number of challenges if they are to contribute effectively to the promotion of good governance in the security sector⁷⁵. Some of these are listed below:

- **Legal obstacles.** These are instances where the applicable legal framework restricts the scope of parliamentary oversight. For example, unlike most West African countries, the Constitution of Guinea does not authorise Parliament to withdraw confidence in the government, pass a motion of no confidence or indict a member of the government. Other constitutions do not authorise parliaments to exercise oversight in relation to the appointment of senior figures of security sector institutions, as in the case of Burkina Faso or even Guinea.

The legal framework can also deny access to particular information about the security sector. For instance, provisions on secrets and state security, as established in some laws, may give rise to diverging interpretations to be invoked to justify the withholding of information by security officials when it is requested by the parliament in exercise of its security sector oversight function. These laws include, for instance, Article 2 of the 2016 Access to Information Act in Togo, which prevents access to any “public information or documents whose disclosure would compromise security and national defence”⁷⁶. Article 36 of the 2015 Act on the same subject in Burkina Faso⁷⁷ or section 38 of the 1996 Security and Intelligence Agencies Act in Ghana⁷⁸ are other examples of these provisions. It is common for West African parliaments to approve budgets for defence secrecy or state secret activities without any justification accompanying the request. If respect for defence secrecy is to be maintained, especially with regard to operational information, some parliaments have procedures which guarantee that the respect is compatible with the full exercise of the parliament’s right to information.

The working conditions of parliaments are also conditioned by the legal and regulatory frameworks. Parliaments must seek to ensure that neither the laws that they pass, nor the practice of the executive bodies arising from regulatory texts, in any way limit the parliament’s oversight powers in relation to the security and defence sector. They must also ensure that any internal texts of the chamber, such as the rules of procedure and procedural manuals, provide clear directives in respect of missions, organisation and mandates, including for committees. For example, the appointments and public service committee of the Sierra Leonean Parliament would not have acted with such transparency (see box 16) in the procedure to

question candidates nominated by the President of the Republic if this transparency had not been required by internal texts.

- **Institutional obstacles.** These include situations when the rights and powers of the opposition are called into question on account of laws or regulations characterised by legal vacuums in relation to particular aspects. For instance, Article 77 of the Rules of Procedure of the National Assembly of Togo provides that “**for the duration of the sessions**, a member of parliament may not be arrested or prosecuted in criminal matters unless the National Assembly has given its approval, excluding any case where a member is caught in flagrante delicto”⁷⁹. However, they make no provision for periods out of sessions. In 2014 and 2015, the Bureau of the National Assembly of Niger authorised the arrest of Messrs. Amadou Hama and Seidou Bakari without having previously questioned them or examined the merits of the complaints asserted by the justice sector against these parliamentarians. The stated reason was that no provision was made by the Constitution, Nigerien laws or the Rules of Procedure for a representative to be heard if an application for a waiver of immunity filed out of session was processed by the Bureau of the National Assembly⁸⁰. The force of legislative power is that it combines majority and opposition into one in the democratic process. As a result, parliaments which, by definition, are directed by the majority party/parties, must preserve and defend the rights of the opposition such that it is not excluded from any debate on security matters.
- **Obstacles in terms of representativeness.** These are instances when the legal and regulatory frameworks do not make sufficient provision for mechanisms to ensure that parliaments become institutions which represent social diversity, especially as regards gender, language, religion, ethnicity or any other dimension of a political scope. The average proportion of women in the parliaments of the 15 ECOWAS countries currently stands at 14.8%. With the exception of the Senegalese Parliament, whose female representation stands at 42%, the other countries ought to implement strategies to achieve the minimum threshold of 30%, as recommended by the UN⁸¹.
- **Obstacles related to the capacity** of parliaments to effectively exercise the various parliamentary functions. These constraints arise from the lack of technical expertise of parliamentarians and from budgetary and equipment-related issues. For instance, an appraisal of the Malian Parliament has shown that limited capacity of parliamentarians to introduce private members’ bills, the lack of policy analysis skills, the limited oversight capacity, lack of knowledge of oversight tools, shortage of experts and assistants and insufficient financial resources are among the major problems restricting the exercise of legislative and oversight functions⁸².

The limited capacity of parliamentarians in the field of legislative drafting, for instance, explains the limited introduction of bills which is currently discernible in parliaments of West African countries. These capacity-related constraints may be aggravated by turnover rates which are often very high in the parliaments of ECOWAS countries. For instance, the turnover rate was 50% in 2001 and more than 80% in 2011 in the National Assembly of Côte d’Ivoire⁸³. Parliaments face the considerable challenge of training new members, which is necessary for the purpose of mastering the tools inherent to their work.

Strengthening parliamentary oversight

The defence of the fundamental values of parliamentarism, such as the protection of ethics, the monitoring of good practices or the election of parliamentarians representing the various categories of society, with increased female representation, are all factors which help to enhance the image of the parliament among the general public and to strengthen credibility in its involvement in state security oversight.

To guarantee effective parliamentary oversight of the security sector, efforts should be made to increase the institutional effectiveness of various units of parliament, the individual capacities of its members and access to information. Finally, relationships should be strengthened between the parliament, institutions and other society actors engaged in security matters.

6.1. Institutional capacity-building of the parliament

6.1.1. The bodies of a parliamentary chamber

As a rule of thumb, parliaments are organically structured into two levels, with a political structure and an administrative structure. The political structure of a parliamentary chamber comprises an office consisting of the speaker, his deputies, the whips and the chairs of committees. Irrespective of its size, which varies from one country to the next, every parliamentary body must meet certain criteria, including inclusivity and capacity, in order to help to achieve effective parliamentary oversight of the security sector. For instance, the leadership of parliament, whose composition is inclusive, particularly in terms of gender and political parties, is likely to achieve better parliamentary oversight of the security sector.

The choice of leaders of parliamentary bodies is also an indicator of performance in parliamentary oversight of the security sector. The speaker actually represents a key actor in democratic oversight insofar as he/she plays a key role in the way in which parliament functions. The speaker must therefore have good leadership skills, by exhibiting initiative, integrity and a capacity to listen to others, to reconcile all elected members of the chamber (from the majority and the opposition) and to inspire others.

The administrative structure known as the General Secretariat provides administrative services and expertise which are essential for political decision-making. The General Secretariat must therefore have access to the material and human resources required to support parliamentary oversight of the security sector.

6.1.2. Parliamentary committees

In a single-chamber parliament, the committee responsible for overseeing defence and security matters falls within the remit of the chamber. On the other hand, in a double-chamber system, the specificity and sensitivity of this committee may result in the establishment of a committee comprising members from the two chambers of the parliament, as in the case of the UK for example. When permitted to do so by the constitution, standing committees may set up sub-committees which can effectively focus on certain aspects of the matters under consideration. Some rules of procedure, such as those of the National Assembly of Côte d'Ivoire, provide for the establishment of sub-committees.

By and large, the way in which the committee overseeing security and defence matters operates differs from standard parliamentary oversight committees. To guarantee the representativeness of its members, smooth relations between the legislative and the defence and security services, and the required confidentiality, its members must be appointed in compliance with a reciprocal requirement of trust between the executive and the legislature. This result is obtained based on committee members being jointly selected by the parliament and the head of government, as in the case of the Intelligence and Security Committee of the UK Parliament.

It may seem paradoxical that members of a parliamentary committee are jointly appointed by the legislature and the executive. However, even if this is not formally the case, the executive has, in fact, a veto over their appointment by way of clearance for access to classified information ("top secret", "secret" and "restricted access"). To ensure that they have access to all the information they need to exercise effective oversight, all members of the committee must also be cleared by the defence and security services. However, this clearance falls within the exclusive remit of the executive. Therefore, in practice and in law, the appointment of committee members falls within the joint remit of the legislature and the head of the government.

A balance can only be struck if a clear answer is provided to all the following questions:

- How can trust be built between the executive and the legislature and representativeness of committee members (including opposition political parties)?
- Can members of the defence and security oversight committee be appointed as members of other committees?
- How can the committee access all the information it needs to fully discharge its oversight function?
- How can the confidentiality of the collected information be guaranteed?
- How can we ensure that the general public receives complete information?
- How can the unintentional leaking of classified information be avoided?

6.1.2.1. Establishing precise requirements with regard to parliamentary committees

The composition of committees must reflect the diversity of parliament to ensure that different voices can be heard in the committee's decision-making and oversight processes. The defence and security committee cannot be effective or credible unless it comprises members from both majority and opposition political groups. Relations both between political groups in the parliament, and between the opposition and the government, must therefore be built on mutual respect. It is certainly difficult to maintain this respect in the wake of a conflict.

In appointing committee members, the leaders of parliaments must strive to eschew any sense of favouritism and prioritise the competence and representative nature of members, whether they belong to the majority or the opposition. A good approach would be, for example, to publish the CVs of committee members on the parliament's website. They therefore gain credibility in the eyes of the general public based on their competence. This kind of information is available on the websites of the parliaments of Ghana⁸⁴ and Nigeria⁸⁵.

As with the speaker, it is important for the committee chair, and especially the chair of the defence and security committee, to have good leadership skills and extensive knowledge of the security sector. The chair must also be attentive, show initiative and be open to all political forces within the committee.

The defence and security committee will not be effective unless it has direct access to all services, namely:

- Law enforcement;
- Defence forces (army, gendarmerie, etc.);
- Domestic and internal security;
- External security;
- Electronic surveillance services;
- Military intelligence services and;
- Intelligence committee placed under the control of the head of the government.

In relation to oversight work, committee members must have extensive knowledge of the security sector, which requires experience and training. More so in this case than any other, the relevance of the questions asked guarantees the effectiveness of the oversight. Any parliamentarians who are not well-briefed on the methods adopted by security services or questions of strategy or military tactics will not know “where to look for” the information.

That is why members of these committees are often individuals with particular expertise in the fields of defence and security, for instance former ministers in charge of these sectors or former heads of government agencies active in these areas. However, this proximity of parliamentarians with oversight of defence and security knowledge to services and ministries may be detrimental to the functioning of the committee in the following ways:

- Excessive political deference of committee members to ministers and senior figures of intelligence services;
- Over-familiarity between committee members and services, especially when members have a background in these services.

Therefore, when the committee consists of former senior defence and security figures, or former high-ranking military personnel, it often happens that the understanding of the operating needs of services takes precedence over the democratic oversight of the parliament. Moreover, the chair of the committee plays the leading role, as he/she is often the only person capable of making headway with the work. That is why the defence and security committee will ideally comprise parliamentarians with a background:

- In the army and security and intelligence services (military personnel and high-ranking officials);
- In the legal profession (judges, lawyers, academics and teachers of practice schools);
- As representatives of other societal groups, without expertise in these matters, to represent the various classes and categories of society;
- Members of majority and opposition parliamentary groups.

In view of the technical nature of the subjects addressed, it is important for the executive and, in particular, professionals of defence and security forces to provide suitable training to members and personnel of the defence and security committee, e.g. courses to promote awareness of operational strategy and tactics. A special effort should also be made to guarantee the presence of male and female parliamentarians in the committee. This point is particularly important as it tends to be overlooked by this kind of committee which is all too often male-dominated. Respect for democratic rules and defence and security service procedures actually concerns women as much as it does men.

6.1.2.2. Strengthening oversight of security and defence in committees

Most committees (especially committees related to finance, internal affairs, foreign affairs and human rights) deal with matters of security which are, by their very nature, cross-disciplinary. The best way to make sure that parliamentary oversight of this sector is exercised to its fullest extent is for each parliamentary chamber to establish a committee whose remit deals exclusively with the security sector.

Several parliaments of West African countries, such as Côte d'Ivoire, Senegal and Togo, have a **defence and security committee**. It has a special mandate which is defined either in the constitution or in the rules of procedure of the parliament⁸⁶. By way of example, the defence and security committee of some parliaments, such as the Beninese and Senegalese Parliaments, is the only body (or extended to the bureau of the parliament) authorised to question government representatives on intelligence service matters⁸⁷. Any restriction on the scope of parliamentary oversight powers by the legal framework also leads to problems of authority for the defence and security committee.

Some West African parliaments prefer to set up several standing committees for matters related to the security sector, each of which focuses on a particular aspect of security. This is the case, for example, of the Liberian and Nigerian Parliaments. However, this calls into question the coordination of work between these committees and the centralisation and processing of information within the parliament. Sub-committees may be set up within a single defence and security committee to streamline the oversight activity of defence and security. Each sub-committee therefore focuses on specific domains, as in the case in the National Assembly of Côte d'Ivoire (box 20). When several committees focus of these matters within a single chamber, an appropriate response may be for senior officials from the majority and opposition parties to liaise on a permanent basis.

Box 18: Examples of organising defence and security sector committees

In ECOWAS countries, the organisation of security sector committees varies from one country to another, as shown in the following three examples:

National Assembly of Côte d'Ivoire

The defence and security committee has jurisdiction over "national defence, policing, immigration, civil protection, prevention of domestic conflicts"⁸⁸ (Article 13 of the Rules of Procedure). In accordance with Article 15 of the same rules, this committee "may set up sub-committees whose composition and jurisdiction are determined by the committee". This committee is currently sub-divided into three sub-committees: one for security, one for defence and one for civil protection⁸⁹.

National Assembly of Liberia

Security matters are addressed by the Judicial Affairs Committee while those relating to defence are addressed by the Defence Committee (Article 59)⁹⁰.

National Assembly and Senate of Nigeria

Security and defence matters are addressed by several committees each specialising in a particular field such as the air force, defence, national security, the navy, policing, etc⁹¹.

Source: Rules of Procedure, Côte d'Ivoire, Liberia, Nigeria

In view of the sensitive matters that they address, defence and security committees must endeavour to check that the information they publish does not undermine the security of the state services and their agents. Published reports can therefore indicate that the committee has examined and scrutinised all relevant information, that it has been able to check that all objectives, means and resources have been used in accordance with rules and laws (or, on the contrary, note any shortcomings or irregularities that have been detected), without publishing operational details which would imperil the security services.

As information to which the committee has access is often classified, its meetings and hearings generally take place behind closed doors, even if public hearings are sometimes organised to address matters which do not relate to operational aspects. Moreover, to prevent the unintentional disclosure of classified information, the content of reports must be reviewed prior to publication. However, although the final decision on the content and the publication opportunity is sometimes “negotiated” in advance with the government, it must be taken by the parliament itself, according to procedures set out in the rules of procedure, for instance. There may be an instance where the final decision to publish the report does not fall within the exclusive remit of the committee, or of the plenary (as the debates of the latter are generally public, the confidentiality of the information could not be preserved), but of the leadership of parliament and the speaker.

In some countries, if it is not possible to publish some information due to its sensitivity, the committee publishes its oversight work by releasing a memo or report which indicates, without citing any details, that in view of the information to which it has been privy, it has observed that procedures, laws and regulations have been (or, on the contrary, have not been) respected. If unlawful practices are detected, the committee may denounce them publicly, on the proviso that it does not call into question the security of the operations, or of the agents under consideration. Many countries in which security oversight committees are part and parcel of the institutional framework establish that members of the committee must sign a sworn statement confirming that they shall not divulge any sensitive information.

6.1.3. Working conditions

The defence and security committee, like other committees that deal with security matters, must have the sufficient logistical means and competent human resources to effectively perform its mission.

Working conditions depend, first and foremost, on access to offices and equipment. For example, the best possible work cannot be produced unless parliamentarians have access to an office in the parliament and two or more committees are not required to share a room, which is still the case in the National Assembly of Mali⁹². Every Parliament must therefore ensure that parliamentarians have sufficient and well-equipped working space. For the purpose of meeting this requirement, a new seat of the Togo Parliament offering “a spacious and modern working environment, with state-of-the-art digital and electronic equipment, perfectly suited to parliamentary work” was opened in June 2018⁹³. In view of their limited financial capacities, parliaments may ask partners to provide assistance. The APF, by way of its Noria programme, has already given West African parliaments a lot of support, not least by modernising their information systems⁹⁴.

Parliamentarians’ activities in constituencies should also be institutionalised to address some of the problems faced by parliamentarians of West African countries in terms of fulfilling their mandate to represent the people⁹⁵. Parliamentarians would therefore have access to the resources they need to carry out their work on the ground and parliaments would become more visible outside the capital city, which is essential for the purpose of enhancing the credibility of their security service oversight activities. This practice is currently deployed, for example, by the Parliament of Nigeria, but it will not be effective unless improvements are made (box 19). In Mali, parliamentarians’ activities in constituencies have been earmarked as a requirement in the 2015-2025 strategic National Assembly Development Plan⁹⁶.

Box 19: Importance of parliamentary offices in constituencies for effective representation purposes

With a view to facilitating their representative function, the Parliament of Nigeria provides its representatives with financial support to set up and operate offices in their constituencies. However, the under-use of these offices has been identified as a problem which reduces the efficiency of this finance. Indeed, the Guide to Effective Representation in the National Assembly of Nigeria indicates that “by not making judicious use of funds made available for establishing and operating constituency offices, most representatives have failed to establish an institutional communication channel with their constituents”⁹⁷. The Nigerian Parliament must therefore make sure that any funds allocated to offices are effectively used to operate them.

Working conditions also depend on the living conditions of parliamentarians, such as allowances, transport options and accommodation. For example, parliaments must be in a position to provide accommodation to parliamentarians when they are in session. Providing parliamentarians with appropriate living conditions – subject to budgetary limits – also increases the effectiveness of anti-corruption measures.

6.2. Individual capacity-building of parliamentarians

To effectively perform their security sector oversight mission, all parliamentarians, and not only members of the defence and security committee, must have basic knowledge of the matter at hand. Capacity-building training for parliamentarians is essential, especially at the beginning of the legislative term, for the purpose of helping new parliamentarians to acquire basic knowledge of the various aspects of parliamentary oversight of the security sector. The capacity-building training for parliamentarians, which is provided by experts from civil society or analysis and research institutes, should also be regarded as a continuous process. Parliaments may seek the support of partners such as the IPU and the APF.

This training can take the form of thematic workshops intended for all parliamentarians or for a specific group, especially members of the defence and security committee (see the practical case outlined in box 25). Any parliamentarians trained, for instance, in the method of researching, investigating and analysing information and in the **results-based management** approach are likely to produce high quality work, especially in the examination of bills and conduct of parliamentary inquiries. By implementing training structures within parliaments, it is possible to provide the best possible response to the capacity-building needs of parliamentarians. Structures of this kind are already in place in some ECOWAS parliaments, including Nigeria (National Institute for Legislative and Democratic Studies) and Ghana (Parliamentary Training Institute).

Box 20: Need to improve the capacities of parliamentarians – the case of the National Assembly of Côte d'Ivoire⁹⁸

Legislative elections took place in Côte d'Ivoire on 18 December 2016. To overcome issues of competence, especially those caused by very high turnover rates in ECOWAS countries, it was deemed useful to provide training early in the legislative term. A four-day workshop was organised in May 2017 for members of the Defence and Security Committee of the National Assembly of Côte d'Ivoire. This training comprised several modules related to security challenges in West Africa and, specifically, in Côte d'Ivoire, reform of the security sector in Côte d'Ivoire, the domestic security programming act, the defence budgetary process and its oversight by the Parliament.

A second training option involves placements or exchange visits organised in the context of cooperation with international partners. For example, six representatives of the Parliaments of Burkina Faso, Mali and Niger took part in a parliamentary exchange programme held from 13 to 17 November 2017 in Washington D.C., in the US. The exchange programme offered them a platform to discuss the active involvement of parliaments in the fight against violent extremism and the strengthening of regional and world peace and security⁹⁹.

Parliaments can also help parliamentarians to enhance their skills based on independent learning, primarily by making available well-equipped documentation services.

6.3. Improving access to information

6.3.1. For parliamentarians

The lack of transparency in security sector governance is just one factor that often makes it difficult for parliaments of ECOWAS countries to exercise effective oversight of this sector. Preventing access to information classified as “secret” and “state security” by a law, which is the case in ECOWAS countries, limits the ability of the defence and security committee to carry out its mission. Parliaments should have the necessary powers to access all the information they need, especially in terms of managing budgetary headings, military equipment orders, the workforce of security sector institutions and the treatment of prisoners. Parliaments could oblige SSI actors to be transparent by, for instance, refusing to allocate funds to certain budgetary headings for which requested information has not been provided.

The parliaments of ECOWAS countries must therefore strive to regulate the conditions used to justify the withholding of any information requested by parliamentarians in exercise of their oversight function. For example, they could initiate the implementation of a framework which governs the conditions relating to state or defence secrets. This framework would precisely define the situations in which members of security committees could access “classified” information by establishing, for example, as indicated above, the possibility of having them make a sworn statement to respect the related secrecy. Parliaments should also seek to implement laws governing intelligence services that also provide for parliamentary oversight of those services. Laws of this kind exist in some ECOWAS countries, including Benin¹⁰⁰, Ghana¹⁰¹ and Senegal¹⁰².

In respect of information classified as “secret” or “top secret”, it seems difficult to allow all members of a committee to access it. In this case, it is necessary to reconcile the confidentiality requirement with the duty of transparency and oversight. The most common practice involves clearing a small number of members selected by the parliament to access the classified information. This clearance is formalised in an agreement between the parliament and the security services (usually the general secretariat of National Defence). These parliamentarians are then given unrestricted access to the most sensitive information and can verify that rules and procedures have been respected by the services. They then inform the committee and, if necessary, the plenary session, of compliance or violation or any irregularities observed, while removing any items which could be used against the state and its services from their presentations or reports. In this case, any representatives with clearance to access this classified information are members both of the majority and of the opposition.

Box 21: Oversight of intelligence and secret services¹⁰³

Democracy dictates that governors should be held to account for their actions by the governed and that they should act in a transparent fashion. Intelligence services are not effective unless they operate, on the contrary, in secrecy. However, this situation does not excuse them from the obligation to be held to account for their actions by the general public. Mechanisms should therefore be considered to allow parliamentary oversight of these services.

Parliaments are responsible for the following in this respect:

- Adopting a clear legal framework on intelligence service structures and implementing structures to exercise oversight of their actions. This framework must specify the limits of intelligence service powers, their operating methods, the procedures for their oversight and the means by which intelligence service agents are able to be held to account for their actions.
- Assessing the merits, legality, effectiveness and efficiency of intelligence service activities.
- Approving, reviewing and auditing the budgets of intelligence services.

Box 22: Legal framework for parliamentary oversight of intelligence services - the cases of Ghana and Senegal

Parliamentary oversight of intelligence services is one of the most difficult tasks faced by most ECOWAS countries. That is due, on the one hand, to the fact that these services act in secrecy and, on the other hand, to the fact that, in many countries, they report directly to the presidency of the republic in question. Some countries have enacted laws which regulate the organisation and functioning of intelligence services. These laws contain provisions on parliamentary oversight, which constitutes an example of a good practice. In Ghana, for instance, the law¹⁰⁴ in this regard provides that: “The Minister assigned responsibility [for Intelligence Agencies] shall in respect of each year submit a report to Parliament on the Intelligence Agencies” (Section 17), and that: “There shall be provided by Parliament from the Consolidated Fund such monies as may be required for the expenses of the Intelligence Agencies” (Section 32). However, a similar law in Senegal¹⁰⁵ restricts Parliament's power by limiting its oversight” in relation to matters of general guidelines for intelligence policy, to the organisation and resources of intelligence services” (Article 15).

6.3.2. For citizens

It is for parliaments to promote the general public's right to plural and quality information, the right of journalists to access sources of information, the protection of people against violence and the protection of their material and their sources of information. To this end, parliaments must enact press laws and oversee their implementation. Laws of this kind already exist in some countries such as Côte d'Ivoire¹⁰⁶, Senegal¹⁰⁷ and Togo¹⁰⁸. The parliaments of the ECOWAS region can also enact laws which protect whistle-blowers and those who report crimes and offences of corruption. Ghana, for instance, enacted such a law in 2006, although it has not yet been fully implemented¹⁰⁹.

Box 23: Whistle-blower Act in Ghana¹¹⁰

The Ghana Whistle-blower Act provides, inter alia:

- Procedures for making a disclosure (Article 4): “A disclosure may be made in writing or orally”.
- Protection of Whistle-blowers (Article 12): “A whistle-blower shall not be subjected to victimisation by the employer of the whistle-blower or by a fellow employee or by another person because a disclosure has been made”.
- And the creation of a reward fund for whistle-blowers whose action has enabled misappropriated public funds to be recovered (Article 20): “There is established by this Act a Whistle-blower Reward Fund”.

This kind of reward program may be effective as it encourages individuals or groups to share information about fraud and corruption and to overlook the risks related to filing a report. The program will not be effective unless it maintains the confidentiality of the informant’s ID, which is not the case in Ghana¹¹¹. This program has room for improvement, particularly in terms of establishing further measures to protect whistle-blowers from victimisation. For example, there should be the possibility to furnish proof via intermediaries such as lawyers, which would maintain confidentiality.

6.4. Strengthening relations with security institutions and external actors

6.4.1. Security institutions

Democratic oversight of the security sector is part of the complementarity of the roles of SSI and the parliament. The legal basis of relations between the parliament and SSI is the law which asserts the supremacy of the civilian authority over the military authority, defines the responsibility of each institution and requires transparency in security sector actions. West African parliaments must therefore ensure that the law confers the power to exercise unrestricted oversight of SSI actions.

Building relationships founded on trust and mutual respect between SSI and the parliament is at the heart of effective parliamentary oversight. Firstly, the parliament must preserve its legitimacy vis-à-vis the general public. By acting ethically, parliamentarians will avoid practices which may tarnish the image of the parliament, such as corruption and biased decisions, which actually undermine trust in SSI and diminish the scope of oversight.

Secondly, parliament can forge networks and institute constructive relations with SSI. These aspects are crucial in assisting parliamentarians to perform their tasks, not least in terms of gathering information from SSI. On this basis, SSI and parliamentarians must engage in consultation and dialogue. This interface, which must be based on mutual trust, increases stability. There is no ready-made formula to establish these links, but some initiatives may help to expedite the process.

Firstly, parliamentarians must keep abreast of any issues and ongoing programs in the security sector and actively contribute to their resolution. Parliament must organise regular working sessions between senior SSI officials and parliamentarians in order to jointly develop particular programs.

Parliamentarians, and especially the senior authorities of parliaments, can also organise security service visits to familiarise themselves with the particular nature of the institutions to which their oversight relates. Moral or material support provided to SSI by parliaments helps to build trust and a collaborative spirit (box 29). The fact-finding mission undertaken by the Defence and Security Committee of the Malian Parliament in April 2016 in the Menaka region, which occurred in the wake of the rebel attacks suffered by the region in early 2016, is a good example of developing relationships of trust with SSI. On this occasion, committee members visited military camps, the gendarmerie and the MINUSMA base¹¹².

Thirdly, joint training workshops for parliamentarians and SSI members related to certain security-based matters would help to build on the links and cooperation between parliaments and SSI. One example is the information and exchange seminar organised in May 2017 on the topic of “Parliament and Human Rights” intended for representatives and members of the judiciary from Benin¹¹³.

Box 24: Example of an initiative for building trust between the parliament and SSI

On 11 April 2018, the President of the National Assembly of Burkina Faso, Alassane Bala Sakandé, visited the military camp of the 11th Commando Infantry Regiment of Dori, in the Sahel region. His meeting with soldiers, during which he delivered a message acknowledging their efforts in the fight against terrorism and other forms of insecurity, was highly appreciated. He also came bearing gifts which included rolling stock to improve their mobility on the ground. This is the kind of action which, besides maintaining the morale of troops, strengthens relations built on trust between parliaments and SSI¹¹⁴.

6.4.2. External actors

6.4.2.1. Civil society

Based on several documents, ECOWAS countries recognise the role of civil society organisations and advocate their effective involvement in security sector reform and governance. One of them is the ECOWAS policy framework for security sector reform and governance adopted in 2016¹¹⁵. Parliaments and civil society organisations each have a role to play in the establishment of a constructive partnership¹¹⁶. These organisations can help parliaments by sharing their expertise in terms of researching, analysing, investigating and distributing information about security-related matters (box 30). This kind of assistance could, for instance, compensate for the lack of qualified human resources in West African parliaments in terms of analysing and reviewing the security sector budget. The publications and expert opinions of organisations can make a significant contribution to the work of parliamentarians. One example is the report on the Multinational Joint Task Force against Boko Haram published in August 2016 by the Institute for Security Studies¹¹⁷.

Box 25: Examples of security sector research and analysis institutions active in West Africa

- The African Security Sector Network (ASSN) in Ghana (<http://www.africansecuritynetwork.org>);
- The Kofi Annan International Peacekeeping Training Centre (KAIPTC) in Ghana (<https://www.kaiptc.org/?lang=fr>);
- The National Network for the fight Against Corruption (REN-LAC) in Burkina Faso (<http://renlac.com>);
- The Institute for Security Studies, whose West African office is based in Senegal (<https://issafrica.org/fr>);
- The West African Network for Peacebuilding (WANEP) in Ghana (<http://www.wanep.org/wanep>);
- The Gorée Institute in Senegal (<http://goreeinstitut.org>).

The involvement of civil society organisations in mobilising communities around security matters is also essential. They also undertake advocacy activities, for instance to demonstrate the links between good security sector governance and the development of a country or a region. That strengthens the parliament’s legitimacy in its essential oversight action. Parliaments can also take advantage of their capacity to report cases of corruption, misappropriation and breaches of good governance standards to obtain useful information for the purpose of scrutinising the security sector. Parliaments would therefore take the reins when it comes to legislating or using other powers at their disposal in the fight against such acts.

Parliaments have the power to enact laws in compliance with the rule of law. They must ensure that the freedom of expression, information and freedom of association is respected, that whistle-blowers are protected and that any measures required to encourage civil society organisations to support the democratic oversight of the security sector are adopted. A recent noteworthy example is the 2017 enactment by the National Assembly of Burkina Faso of a law on the protection of human rights defenders¹¹⁸. Parliaments can also create cooperation frameworks with organisations, especially by organising parliamentary debates and by questioning civil society actors whenever necessary.

6.4.2.2. Independent public institutions

Every ECOWAS country has independent public institutions whose mission is to provide external oversight of public services. There are several types, but those with the greatest involvement in issues related to human security are the ombudsman's office, the independent human rights committee and the court of auditors.

The institution or office of the ombudsman, whose task is to hear and resolve disputes between public authorities and the general public, and the parliament, are evidently complementary. The ombudsman's office, to which individual cases are generally referred, and which has a right of scrutiny over all the government's action, can supply detailed information to the parliament for parliamentary oversight purposes or even recommend new legislative measures. Effective oversight also involves establishing close connections between the parliament and the **independent human rights committee**, whose task is to hear and investigate alleged human rights violations, and the **court of auditors** (or Auditor General), whose task is to audit public finances.

The nature of the relations must be defined by a legal framework. For instance, the legal framework establishing the institution of the ombudsman in some ECOWAS countries, such as in Burkina Faso, The Gambia, Mali and Togo, provides that the ombudsman shall submit an annual report to parliament¹¹⁹. In countries where relations between parliament and independent public institutions are not defined by a legal framework, such as in Benin, Senegal and Côte d'Ivoire, in respect of relations between the parliament and the ombudsman, parliaments should strive to implement a legal framework whereby they are able, at least, to officially receive and systematically review the reports of these institutions.

These independent public institutions possess expertise, especially in data collection and processing and in terms of investigating the actions of public officials, including those of the security sector. On this basis, they are able to produce concrete and well-informed reports. However, the performance of these institutions is sometimes mainly limited by financial problems, as illustrated by the 2017 report of the National Human Rights Commission of Togo¹²⁰. By virtue of its budgetary function, the parliament can approve budgets geared towards the effective functioning of these institutions. Furthermore, other institutions, not least the parliament, must take the reins to ensure that any conclusions and recommendations are properly implemented. As part of its mission to scrutinise the government's security actions, the parliament may use their reports or request their opinion on any matters over which they have jurisdiction.

In conclusion to this chapter, the parliaments of ECOWAS countries should institute different short, medium and long-term initiatives to increase the impact of their oversight on the security sector. These actions cannot be improvised. Every parliament should therefore devise a multi-annual strategic plan. The plan formulated by the National Assembly of Mali sets a good example. It analyses the strengths and weaknesses of the Assembly, sets out the vision ("Make the National Assembly plural, independent, open, effective and responsive to the aspirations of the sovereign people in a united, secular, reconciled and prosperous Mali by 2025"), the objectives to meet and expected results¹²¹.

The ECOWAS parliament's involvement in security sector oversight

7.1. Its status and powers

7.1.1. Structure and designation of members

The ECOWAS established a Community Parliament, since renamed “ECOWAS Parliament”, by virtue of Articles 6 and 13 of the revised Treaty of 1993. Its structure, composition, mandate and authority are defined by the 2016 Act relating to the enhancement of the powers of the ECOWAS Parliament¹²². The political wing of its structure comprises “the Plenary, the Parliament Bureau, the Conference of Committees’ Bureaux, Standing Committees and Parliamentary Groups”. There are currently 13 standing committees, one of which relates to peace and security while four other committees address security matters on an ancillary basis. The Parliament can also set up special committees and committees of parliamentary inquiry whenever necessary. The Parliament also has an administrative wing which consists of the General Secretariat, run by the Secretary General of the Parliament.

Article 18 of the 2016 Act provides that representatives of the ECOWAS Parliament shall be “elected by direct universal suffrage by the citizens of Member States”. Pending the election of representatives to the ECOWAS Parliament by direct universal suffrage, which seems to require extensive preparation time, not to mention the related financial and logistical requirements, the representatives of the Parliament are designated by the national parliaments of member countries. This duality in the status of the Parliament’s representatives, given that they also sit in their national parliaments of origin, is advantageous in that it establishes a link between the national parliaments and the ECOWAS Parliament. For instance, this link gives the Parliament the opportunity to use the influence of its representatives, who are also representatives at the ECOWAS level, to ratify protocols, agreements and other ECOWAS texts.

This duality also has its drawbacks. Firstly, representatives do not sit full-time at the ECOWAS level. Moreover, in light of the discrepancies between the electoral timetables of member states, the composition of the Parliament is not permanent during a legislative term. Numerous changes to the composition of the Parliament mean that planning becomes problematic, e.g. for the capacity-building training of parliamentarians.

7.1.2. Powers

At present, the ECOWAS Parliament is an assembly which does not legislate, but issues advisory opinions to the Conference of Heads of State and Government, to the Council of Ministers and to other ECOWAS institutions. However, in relation to former texts governing the ECOWAS Parliament, the 2016 Act incorporates substantial innovations which gives the Parliament the extensive power to promote the democratic governance of the security sector in West Africa beyond national borders. The ECOWAS Parliament is now, among other things, formally involved in the enactment of certain laws and the budget of ECOWAS, and in the oversight of bodies responsible for deploying ECOWAS programs. It may also, by invitation, take part in the meetings of the ECOWAS Mediation and Security Council. Moreover, it is authorised to rule on any matters relating to the ECOWAS, not least matters on human rights and the fundamental freedoms of citizens. However, the 2016 Act has its limitations. Indeed, Article 10 provides that referrals to the Parliament are non-mandatory for “defence, peace and security policies”.

Furthermore, the Parliament's security ambitions are reflected in the organisation of standing committees, as defined in the Rules of Procedure of its fourth legislature¹²³. Of thirteen standing committees, five deal with issues relating directly or indirectly to the security sector, namely human rights and child welfare, budget, judicial affairs, peace and security, and gender.

7.1.3. Capacity-building of the Parliament

As parliamentarians are designated by national parliaments, every national parliament is responsible for deploying competent representatives to the ECOWAS Parliament. The ECOWAS Parliament must seek to improve the capacities of its representatives:

- By regularly organising capacity-building training courses in relation to various security sector issues;
- By developing its representatives' discipline and parliamentary ethics.

The ECOWAS Parliament must also seek to strengthen the effectiveness of its various bodies. This involves making sure that committees, and especially security sector committees, are able to operate effectively. Committees are actually the centre piece of the Parliament as their role is to investigate, conduct hearings and prepare questions and reports.

The ECOWAS Parliament must also resolve the problem of a shortage of administrative personnel, as indicated in its 2016-2020 Strategic Plan¹²⁴, especially in the parliamentary affairs department, with a view to improving the assistance provided to its members.

7.1.4. Tools promoting interaction between the Parliament and institutions of the ECOWAS on security matters

In its relations with other ECOWAS institutions, the Parliament, on the basis of the Rules of Procedure of its fourth legislature, considered the use of the following tools to fulfil its mission:

- Receiving messages with or without debate from the Chairman of Authority, other Heads of State, the President of the Council of Ministers, any member of the Council of Ministers and the President of the Commission;
- Receiving annual reports from the President of the Council of Ministers and from the President of the Investment and Development Bank of the ECOWAS;
- Receiving a presentation from any head of an institution or specialist agency of ECOWAS;
- Dealing with oral or written questions to the Chairman of Authority or to the Commission President;
- Organising parliamentary inquiries;

- Presenting recommendations to be considered and ruled upon by the Chairman of Authority, as well as an annual report intended for the Chairman of Authority and the President of the Council of Ministers;
- Expressing an opinion on matters related to ECOWAS, at the request of the Council of Ministers.

Even if its current powers are still, to a large extent, merely advisory, these tools will enable the ECOWAS Parliament to exercise parliamentary oversight by drawing the attention of the political actors of the ECOWAS to their shortcomings in the management of the security sector and by expressing opinions and recommendation to remedy these shortcomings.

7.2. Relations between the ECOWAS Parliament and national parliaments

As things stand, relations between the ECOWAS Parliament and national parliaments are limited to the exchange of information and contacts. This exchange is further strengthened by the duality in the status of the members of the Parliament. Numerous initiatives may be considered by both sides to ensure that this interaction is able to help to promote the good governance of security services. Here are some examples:

- National parliaments could incorporate the opinions expressed by the ECOWAS Parliament into their security sector democratic oversight processes. This aspect also gives national parliaments the chance to support the ECOWAS Parliament in its request for full participation in the conduct of ECOWAS affairs.
- The ECOWAS Parliament could organise meetings with national parliaments on issues such as the promotion of standards and good practices in the field of democratic oversight. These meetings would also help to inform national parliaments of the need to adopt and implement certain laws, such as laws on the freedom of expression and access to information.
- The ECOWAS Parliament must endeavour to breathe new life into the Conference of West African Speakers of Parliament which provides a platform for high-level discussions on a range of topics, including security, between the parliaments of the ECOWAS region.

Box 26: Example of collaboration between the ECOWAS Parliament and national parliaments in relation to the security sector

Article 27 of the 2016 Act on the enhancement of powers of the ECOWAS Parliament encourages the Parliament to hold particular meetings “away from the seat, in member states”. This relocation seeks, among other things, to bring ECOWAS closer to the general public that it represents. It is also an opportunity to involve members of national parliaments in its debates and analyses of security matters. For instance, a five-day meeting in Bamako in March 2017 brought together members of two committees of the ECOWAS (the committee of political affairs, peace, security and African peer assessment mechanism and the committee of legal and judicial affairs), representatives sitting on the Defence and Security Committee of the National Assembly of Mali and experts on peace and security matters. This meeting predominantly focused on the issue of terrorism in the Sahel region¹²⁵.

7.3. Strengthening the effectiveness of the ECOWAS Parliament

Without ignoring or underestimating capacity issues in terms of logistics and human resources, special attention should be given to one challenge, namely the **ECOWAS Parliament's powers**. The current status of the Parliament limits it to a forum of consultation and dialogue merely suitable for issuing opinions and recommendations without any binding effect, with a view to promoting integration. Furthermore, defence, peace and security policies are areas which are not necessarily referred to the Parliament in the community act adoption process (Article 10 of the 2016 Act). Without full legislative power, for example, the Parliament's actions are restricted in the definition of the security-related legal framework. At present, the decision-making and implementation of regional security policies are shared between the Conference, Council of Ministers, Court of justice and the ECOWAS Commission. The reflection of the prominence of the executive in the field of security certainly continues to characterise some ECOWAS states.



Checklist

This aide-mémoire summarises some important aspects that should be considered to strengthen parliamentary oversight of the security sector. As security sector reform is specific to each particular context, the list below is not meant to be exhaustive. Depending on the situation, some items may not be adjusted; others, which are not featured therein, may, on the other hand, prove to be necessary.

1. Understanding the terminology of security sector reform and governance

Parliamentarians must be able to understand the basic concepts of the security sector to which their oversight relates, not least:

- The concept of human security;
- The issues of SSR/SSG.

Important: As the cornerstone of democracy, the parliament must have constitutional legitimacy to exercise oversight of the executive's actions to promote the security of people and institutions

2. Understanding the basics and importance of parliamentary oversight

On account of the individual and institutional responsibilities of parliamentary work, especially in terms of security sector oversight, the following aspects must be clearly understood:

- The particular concept of parliamentary oversight which must be exercised without any restrictions other than those which seek to maintain the integrity of services while guaranteeing the completeness of the oversight;
- The fundamental importance of the constitution in defining the legal bases of the legitimacy of parliamentary functions;
- The fact that the representativeness of social and political groups in the parliament (including the representation of women in assemblies) and its bodies strengthens the legitimacy of parliamentary oversight.

3. Managing parliamentary oversight tools

In the knowledge that parliamentary oversight of the security sector faces numerous difficulties, parliamentarians must be able to manage technical processes, and in particular:

- Know how parliamentary functions are exercised, i.e. the representative function, the budgetary function, the oversight function, the legislative function and the elective function;
- Manage the parliamentary oversight tools, namely questions, interpellations, hearings, inquiries, debates, motions of no confidence and censure votes;
- Understand the guiding principles of parliamentary oversight, which predominantly consist of effectiveness, efficiency and compliance with good SSG standards;
- Understand the need to develop and use communication channels to inform the public of parliamentary work in relation to security;
- Remedy any internal flaws based on external resources, not least civil society organisations and independent public institutions.

Important: even if all the constitutions of ECOWAS member states provide for parliamentary oversight, some are less precise than others. The powers of parliaments must be strengthened in all constitutions.

4. Strengthening parliamentary oversight

Parliamentary oversight will not be effective unless it has access to technical expertise, equipment and human resources. The following actions play a crucial role in empowering parliaments:

- Produce an appraisal of the parliament to identify any constraints by which it is concerned and to prepare a multi-annual plan for its development;
- Enhance the key values of parliamentarians, especially by establishing a code of ethics which sets out the constraints and rules to be respected both inside and outside of the parliament;
- Strengthen the independence of parliament with regard to external actors, not least the government, by implementing the principle whereby “there shall be no imperative mandate”;
- Implement laws and regulations whose provisions compel the parliament and its bodies to include any social and political groups that may be marginalised;
- Increase the organisational and functional capacities of parliaments, including:
 - The capacities of committees and especially the defence and security committee;
 - The capacities of expertise and support services;
 - Interaction between parliamentarians and citizens, not least by establishing parliamentarians’ surgeries in their constituencies.
- Individual capacity-building of parliamentarians, especially:
 - By organising individual continuous capacity-building training programs for parliamentarians;
 - By providing parliamentarians with well-equipped documentation services.

- Improve access to information, especially:
 - By implementing a law or regulation which provides for the unlimited access of defence and security committee members to security sector information, including any classified as “state secret” or “secret”;
 - By striving to implement laws governing intelligence services which also provide for parliamentary oversight of these services;
 - By adopting and overseeing the application of press laws which promote the public’s right to plural and quality information;
 - By adopting laws which protect whistle-blowers and those who report crimes and offences of corruption.
- Strengthen relations with security institutions and external actors:
 - By promoting consultation and dialogue between senior security sector institution officials and parliamentary leadership;
 - By forging or building on constructive partnerships with civil society organisations active in the security sector, the ombudsman, the independent human rights committee and the court of auditors.

Additional Resources

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Notes

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