

# **INFORMATION EXCHANGE ON THE OSCE CODE OF CONDUCT ON POLITICO- MILITARY ASPECTS OF SECURITY: INTRA-STATE ELEMENTS**

STUDY REPORT PREPARED BY DCAF – GENEVA  
CENTRE FOR SECURITY SECTOR GOVERNANCE  
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## About this report

On the occasion of the 25th anniversary of the adoption of the *OSCE Code of Conduct on Politico-Military Aspects of Security*, which also marks 20 years since the start of the annual information exchange, the year 2019 is an opportune time to reflect upon this foundational confidence-building measure within the aegis of the Organization for Security and Co-operation in Europe (OSCE).

This report has been developed by DCAF – Geneva Centre for Security Sector Governance at the request of the Swiss Chairmanship 2019/I of the Forum for Security Co-operation (FSC) and with financial support from the OSCE. The report presents the findings of research on intra-State elements of the information exchange on the Code of Conduct, which analysed reporting from 2018 with the aim of developing an evidence-based understanding of the scope of responses provided by OSCE participating States. This is intended to contribute towards efforts to ensure that the information exchange is utilized to its fullest extent as a confidence-building measure within the existing framework. For this purpose, the study examines four questions selected from the *2009 Questionnaire*.

An initial draft of this report, with preliminary findings, was submitted prior to the 912th Plenary Meeting of the FSC, which took place in Vienna on 3 April 2019. A full and expanded draft was presented on 12 June 2019 at the Eighth Annual Discussion on the Implementation of the Code of Conduct. Following the Discussion, the report was revised pursuant to comments and suggestions made there, before its preparation for final distribution.

The views expressed herein are those of the authors alone and do not in any way reflect the official views of the organizations involved in this project, or those of their representatives.

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## List of abbreviations and acronyms

<b>BiH</b>	Bosnia and Herzegovina
<b>CHOD</b>	Chief of Defence
<b>EU</b>	European Union
<b>FSC</b>	Forum for Security Co-operation
<b>GDP</b>	Gross domestic product
<b>HQ</b>	Headquarters
<b>MFA</b>	Ministry of Foreign Affairs
<b>MoD</b>	Ministry of Defence
<b>MoF</b>	Ministry of Finance
<b>MroD</b>	Minister of Defence
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	Non-governmental organization
<b>OSCE</b>	Organization for Security and Co-Operation in Europe
<b>PMSCs</b>	Private military and security companies
<b>pS</b>	Participating States
<b>Q</b>	Question
<b>RP</b>	Reference point
<b>UN</b>	United Nations







## Executive Summary

Within the institutional framework of the Organization for Security and Co-operation in Europe (OSCE), the information exchange pursuant to the politically-binding *1994 Code of Conduct on Politico-Military Aspects of Security* (DOC.FSC/1/95, 3 December 1994) is integral to confidence-building between participating States (pS). Thus, it is crucial to examine the span of responses submitted by pS in their annual reports, to ensure that going forward, this mechanism is utilized to its fullest extent and properly serves the purposes for which it was developed and adopted. This report focuses on four Questions (1.1, 2.1, 2.2, and 2.3) from Section II of the *2009 Questionnaire* (FSC.DEC/2/09, 1 April 2009), which was agreed by consensus of the Forum for Security Co-operation (FSC). The four questions reflect the core of **Section VII of the Code**, namely the provisions regarding the democratic political control of armed and security forces. These **intra-State elements** concern issues such as national planning and decision-making processes, as well as existing structures and processes related to national security forces.

Annual reports received from pS in the **2018 reporting year** served as the basis for this study. In the few cases in which pS did not submit a report covering 2018, their most recently submitted report was used for analysis. All these reports are publicly available on the official website of the OSCE. Reports that were not submitted in English were translated in-house by DCAF – Geneva Centre for Security Sector Governance.

A **four-step, qualitative analytical process** was adopted for this research. **First**, the full text submitted by pS for each selected question was extracted from their respective reports and collated into one document. **Second**, the full text provided by each pS for each question was categorized under the most relevant reference point (RP) as outlined by the *2010 Reference Guide* (FSC.DEL/142/10, 2 November 2010). **Third**, the texts under each RP were further organized into different thematic topics (headings in **bold**) to manage the complexity and diversity of the data. **Fourth**, general observations related to each question and each RP were formulated. **Additionally**, in order to integrate an element of temporal analysis, one pS is featured in relation to each of the four main questions in the 2010, 2014, and 2018 reporting years, allowing time-related trends to be identified, if they exist. For each question, analysis is split between two parts: the first (e.g. 3.1.1) incorporates raw data drawn and directly quoted from pS reports, and the second (e.g. 3.1.2) offers general observations.

This four-step process highlighted a number of trends and insights for each of the selected questions; and while each question generated distinctive discussion points, a number of common threads can be identified across them.

There is little agreement among pS as to how **various types of security forces** within their national security frameworks are delineated, for example. Discussion of **internal security forces** (such as the police, customs officers, or gendarmerie) was often ambiguous, as these forces may be tasked with overlapping responsibilities but be accountable to different ministries. There was also a particular lack of agreement as to the scope of **'paramilitary and/or internal security forces'** (specifically mentioned in some RPs under questions [Qs] 2.1 and 2.3). Further, some RPs do not





specify a type of security force to be discussed, leading to a wide variation in responses (especially under some Q 2.1 RPs).

Generally, pS did not discuss the **relationships between different institutions** involved in national planning and decision-making processes (Q 1.1). While many pS listed the responsibilities of different types of security forces, few elaborated upon the process by which decisions are made and legislation is enacted. Moreover, when discussing established procedures, pS had a tendency to **list and quote constitutional articles and legislation** without explanation or contextualization, and to discuss the **structure** of various forces with little reference to the mechanisms that ensure their democratic political control (e.g. Q 2.1). For the most part, pS similarly neglected to elaborate on *how* they ensure that security forces act solely **within the constitutional framework** (Q 2.3).

Discussion on **oversight procedures and accountability mechanisms** within and outside of government was quite vague as well. Given that these processes are **self-reported**, the extent to which provisions on paper translate to actual procedures and practices is unknown.

Also contributing to a lack of clarity is the fact that **terminology is often utilized by pS interchangeably**. This can lead to confusion when some pS establish distinctions between similar abstract elements, or when pS adopt the same terminology to discuss unrelated topics. Some terms used in this way include, for instance, “democratic oversight,” “democratic accountability,” “civilian control,” “public scrutiny,” and “accountability” (Q 1.1). The vague and inconsistent application of these terms by some pS makes it difficult to differentiate the role of each institution in decision-making processes. Still, as some reports were submitted in languages other than English, it is important to acknowledge that degrees of nuance may have been lost in translation.

Notably, the *2009 Questionnaire* and the *2010 Reference Guide* are not complementary, and there is an analytical gap between issues identified in the two documents. Indeed, it is often unclear **how RPs relate to their respective questions**, and even to each other (especially Q 2.3). As a result, pS tend to address some RPs and not others, and often **lose sight of the overarching question** in their responses. In addition to a clear preference for some RPs, there is also some **overlap** between some RPs in Qs 1.1 and 2.1, especially in those relating to civilian control and democratic oversight of security forces. Due to a general lack of common understanding of these concepts, the conflation of various existing structures and processes is typical; and in the case of Q 2.2, which is a direct continuation of Q 2.1, the conflation of these two questions was almost inevitable.

Annual reports by pS provide an unrivalled wealth of information, shared among pS every year, and thereby contribute to continued confidence-building within the OSCE area. However, from a methodological perspective, this information is mostly **neither verifiable nor comparable**, as the current framework lacks objective criteria. As such, it remains a challenge to provide empirically-grounded evidence as to the progress made, or not made, in implementing the Code.

Key findings, presented and discussed during the 912th Plenary Meeting of the FSC (April 2019) and the Eighth Annual Discussion on the Implementation of the Code of Conduct on Politico-Military Aspects of Security (June 2019), are included in the Annex.





## 1. Introduction

The purpose of this study is to examine the responses submitted by participating States (pS) as part of the Organization for Security and Co-operation in Europe (OSCE) 2018 information exchange pursuant to the politically-binding *1994 Code of Conduct on Politico-Military Aspects of Security* (DOC.FSC/1/95, 3 December 1994). It aims to discern the extent to which pS provided responses that directly address the questions (Qs) in Section II of the *2009 Questionnaire* (FSC.DEC/2/09, 1 April 2009), which was adopted by consensus. This study focuses on intra-State elements that relate to national planning and decision-making processes, as well as existing structures and processes relating to national security forces. By comparing the reports submitted by pS, this study generated observations and insights into the scope and depth of the issues considered relevant and/or important by pS to include within their reports. The four questions analysed in this study were selected not only because they specifically address key intra-State issues, which form the core of Section VII of the Code, but also because the responses to these questions discussed overlapping aspects of the democratic political control of armed and other security forces.

This study is significant as it attempts to put forward a qualitative analysis of the reports submitted by pS as part of the information exchange, which have not been subject to in-depth examination since the *2010 Academic Study* (FSC.GAL/99/10, 13 September 2010). Therefore, this study aims to survey the span of reporting by pS, contribute towards a better understanding of the issues considered significant by pS, and ensure that this mechanism is utilized to its fullest extent as a confidence-building measure within the existing framework. By examining the substantive content of annual reports, using the voluntary *2010 Reference Guide* (FSC.DEL/142/10, 2 November 2010) as a starting point, it became clear that a majority of pS provided responses as per the structure outlined in the *2009 Questionnaire* and were not guided by the indicative reference points (RPs) laid out in the *2010 Reference Guide*. Consequently, this study builds upon the *2015 Working Paper to Improve Reporting* (FSC.DEL/29/15, 12 February 2015) in its effort to provide an empirical and substantive basis from which to achieve a better, overarching understanding of the reports received every year. It thus examines the scope of information provided by pS and reflects upon the RPs to which pS opted not to provide a response.

This study is divided into four sections: an introduction (section 1); methodological considerations (section 2); an overview and analysis of the 2018 information exchange (section 3); and concluding observations (section 4). The bulk of empirical and substantive analysis is found in section 3. The four questions covered by this study are examined in numerical order, with analysis for each question structured as per the RPs outlined in the *2010 Reference Guide*. Each of these RPs is then broken down into sub-topics, to consolidate the range of responses received. For example, Q 2.1, RP 2.1.3 addresses the constitutionally established procedures for police, with RP 2.1.3 divided into several different topics, including relevant constitutional provisions and/or legislative acts, structure, purpose and/or powers, civilian control, oversight, reforms, and complaints bodies and/or systems. After examining each RP, general observations are offered in the second part of







the analysis for each question, meant to facilitate a greater understanding of the issues that pS chose to emphasise, or conversely, which topics they chose not to address. So as to also provide insight into the temporal dimension of pS reporting for each question, the responses of four pS (Switzerland, Serbia, Norway, and Poland) submitted in 2010, 2014, and 2018 were selected to illustrate the variety of submissions received and how they have evolved over time.

## 2. Methodological Considerations

### 2.1. Reports selected

Of 57 OSCE pS,<sup>1</sup> nine did not submit a report in 2018. For six of those nine, a report from a previous year was analysed for the purposes of this study (Canada, 2017; Croatia, 2017; Mongolia, 2016;<sup>2</sup> San Marino, 2017; Spain, 2017; and Tajikistan, 2016). Three pS had not submitted any reports in recent years (Kyrgyzstan, Turkmenistan, and Uzbekistan). Thus, in total, the reports of 54 pS were examined as part of this study. Of these reports, 42 were submitted in English; four in French; four in Russian; two in Italian, and one each in German and Spanish.

### 2.2 Questions selected

Four questions from Section II (intra-State elements) of the *2009 Questionnaire* were selected for this study. These questions examine the internal structure and process for decision-making in the defence sectors of pS, and established procedures for the control of various types of security forces within their national security infrastructures. Reflecting the core of Section VII of the Code, these questions concentrate on the democratic political control of armed and other security forces. It must be noted, however, that questions included in the information exchange do not correspond exactly to the articles and wording of the Code, leaving room for pS to interpret and utilize terminology in different ways according to their national contexts. The same is true of the RPs in the *2010 Reference Guide*. To avoid confusion when discussing the content of the RPs in this text, they have been replaced with numbers, both below and in later sections (See Box 1).

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<sup>1</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, BiH, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Mongolia, Montenegro, The Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America, and Uzbekistan.

<sup>2</sup> Mongolia's most recent report was submitted in 2017, but is unavailable online, so its 2016 report was used instead.





**Box 1: Questions selected from Section II (intra-State elements)**

**1. National planning and decision-making process**

**1.1 *What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?***

1. *The role of the executive, including the head of state and/or government, as well as key governmental security and defence advisory bodies;*
2. *Institutions and procedures ensuring democratic oversight and public scrutiny;*
3. *Checks and balances and chain of command in relation to democratic accountability and transparency;*
4. *Relationship between defence policy and the military posture;*
5. *Planning and accounting processes in the defence sector;*
6. *Figures on the defence budget and expenditures;*
7. *Restructuring, modernization and privatization programmes in the defence sector.*

**2. Existing structures and processes**

**2.1 *What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?***

1. *Constitutionally established procedures for ensuring civilian control and democratic oversight;*
2. *Cross-departmental co-ordination and public scrutiny beyond the State;*
3. *Special information about civilian control and reforms in the police;*
4. *Structure, oversight, reform, and privacy protection in relation to civilian/domestic intelligence services;*
5. *Special information regarding the basic structure of the armed security sector;*
6. *Special information about civilian control and reforms on paramilitary and/or internal security force;*
7. *Trends towards the privatization in the security sector/PMSCs.*

**2.2 *How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?***

1. *Further procedures, institutions, and best practices at the executive and legislative levels (beyond 2.1).*





#### Box 1: Questions selected from Section II (intra-State elements)

##### **2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?**

1. *National and international threat assessment/information on respective adaptations to a changing international security environment;*
2. *Foreign defence vs. internal security (assistance) missions of the armed forces; including subsidiary policing and public order missions;*
3. *Additional information on the status and missions of paramilitary and security forces and their respective assignment to internal security missions and/or international peace and constabulary missions;*
4. *Specific information on paramilitary and/or security forces; or explanation why precisely you don't maintain such forces; or: information on how you otherwise define these forces according to the tradition of your national security framework.*

Source: 2010 Reference Guide (FSC.DEL/142/10, 2 November 2010)

## 2.3 Data compilation and extraction

All the analysed reports of pS were retrieved from the official OSCE website, where they are made available to the public.<sup>3</sup> Reports that were not submitted in English were translated in-house by DCAF. As this study is authored in English, the unofficial in-house translations are incorporated into the main text of the empirical analysis, with the direct quotes in the various languages included as footnotes.

A four-step process was adopted in the production of this study. First, the text of answers provided by pS to the selected questions was extracted from their respective reports. This text was collated into a table in the original language, so as to facilitate subsequent searching, editing, and translating. Thus, each question (e.g. Q 1.1) has an individual large-scale table, in which one column contains a direct copy of the full text provided by each pS. Second, the text provided by each pS for each question was placed under the most relevant RP (e.g. RP 1.1.1), in a long list of bullet-points that again included direct quotes from the original text provided by pS. Third, the bullet points under each RP were further differentiated by thematic topics (e.g. RP 1.1.1[**topic**]). Fourth, general observations for each RP were generated and discussed at the end of each question. It is important to note that the *1994 Code of Conduct* is politically-binding; the annual information pursuant to the *2009 Questionnaire* was adopted by consensus by the FSC; and reference to the

<sup>3</sup> OSCE, "Answers to the Code of Conduct Questionnaire: Information Exchange on the Code of Conduct on Politico-Military Aspects of Security" (2018). Available from <https://www.osce.org/forum-for-security-cooperation/86841>.







*2010 Reference Guide* is voluntary – this hierarchy undoubtedly informs the structure adopted by pS in their reports.

To add an element of temporal analysis outside the mandated scope of this study, and in order to illustrate and identify trends in reporting, one pS was selected in the context of each question to shed light on the range of responses received in reporting years 2010, 2014, and 2018. In other words, for each of the four questions selected for analysis, one pS is featured: Switzerland (Q 1.1), Serbia (Q 2.1), Norway (Q 2.2), and Poland (Q 2.3). It must be emphasized that these four pS are not fully representative of the varied responses received every year, but this focused analysis helps to illustrate that pS often adopt disparate reporting styles across reporting years and that issues of concern can vary greatly or remain quite similar, even for the same pS.

## **2.4 Reliability of data**

It is important to keep in mind that the information collected and included in this report is a result of self-reporting by pS. This lends to valuable insights discerned, for example, from the balance of issues pS emphasize and omit. However, when structures, processes, and procedures are self-reported, a disparity between law and practice may be reflected; that is, what is enshrined in the constitution and/or relevant legislative acts may not necessarily translate into practice. Hence, it is important to acknowledge that reporting of this nature may serve as an occasion for pS to present an idealized version of their national security governance. Moreover, as the issues addressed in this information exchange are inherently political, and frequently highly sensitive, it is not surprising that the language employed by pS to discuss them is often vague, broad, and sweeping.

Along a similar vein, while a number of pS submitted their reports in their native languages (i.e. French, German, Italian, Russian, and Spanish), most were written in English – which is not the official language for many pS. Combined with the considerable amount of technical language usually integrated into these reports, this serves to detract from a common understanding and usage of terminology across the reports received. In fact, the disparate definitions that have been adopted by pS contribute to a lack of coherence.

Moreover, while pS apportioned their own responses to each question, a choice had to be made when categorizing and assigning these responses to RPs and topics for the purpose of this study. While most pS did not address all RPs as outlined in the *2010 Reference Guide*, some responses fell within the purview of several RPs. Though topic headings streamlined the analysis in an attempt to create greater coherence between reports, this approach emphasized certain similarities among responses while inadvertently removing the focus from omissions or from issues mentioned only briefly by just a single pS. It is also worth noting that not all pS provided responses to all four questions, with some referring to responses submitted pursuant to other questions, particularly when it came to Q 2.2.





Overall, a great range of depth and scope was observed in the reports received from pS, and this span of responses simply does not translate easily into this study. An issue may have been mentioned by one pS in passing, but discussed at length, in several paragraphs or even pages, by another pS. It is important to keep in mind that within the context of this study, discussions by pS on any single issue may have been significantly summarized or emphasized. There are also occasions when multiple pS used similar language or framed an issue in a similar manner, and the issue was thus attributed to all relevant pS.

Finally, it is essential to highlight that this is a qualitative study, wherein the responses of pS often cannot be directly compared. Different systems of governance, types of security forces, and understandings of the same terminology, among other disparities, make this a challenging analytical exercise. Yet, despite these difficulties, it is hoped that this study illustrates and clarifies the landscape of reporting and contributes to a greater understanding of how to get the most out of this important confidence-building measure going forward.





### 3. 2018 Information Exchange: Overview & Analysis

#### 3.1 **Question 1.1: What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?**

**Reference points:**

1. *The role of the executive, including the head of state and/or government, as well as key governmental security and defence advisory bodies;*
2. *Institutions and procedures ensuring democratic oversight and public scrutiny;*
3. *Checks and balances and chain of command in relation to democratic accountability and transparency;*
4. *Relationship between defence policy and the military posture;*
5. *Planning and accounting processes in the defence sector;*
6. *Figures on the defence budget and expenditures;*
7. *Restructuring, modernization and privatization programmes in the defence sector.*

Source: 2010 Reference Guide (FSC.DEL/142/10, 2 November 2010)

Replies to questions regarding national planning and decision-making processes were provided by a vast majority of the pS that submitted reports pursuant to the information exchange. In 2018, 35 pS provided an answer for Q 1.1. In Q 1.1, 23 pS described the roles of different government branches in their national planning and decision-making process in determining/approving military posture and defence expenditures; 23 pS also reported on the decision-making process for their budgets. Of the 35 pS that answered this question, only 14 included a detailed description of national practices and policies, while 11 responded only with references to relevant laws, without any description.<sup>4</sup>

In 2018, three pS noted that there were no military forces and/or defence expenditure in their State (Andorra, Iceland, Liechtenstein), while one submitted a report but did not answer Q 1.1 (Monaco), and others observed that responses provided in previous years remain valid (Holy See, Mongolia). One report was missing a page (Latvia).

<sup>4</sup> See OSCE, "Statistical Overview of the 2018 Information Exchange on the OSCE Code of Conduct on Politico-Military Aspects of Security" (FSC.GAL/64/18, 7 June 2018), p. 10.







### 3.1.1 Overview of responses

#### 3.1.1.1 *The role of the executive, including the head of state and/or government, as well as key governmental security and defence advisory bodies (RP 1.1.1)*

Of the 16 pS<sup>5</sup> that specifically mentioned the role of the **head of State** in 2018, almost all noted that the President is also the Commander-in-Chief or Supreme Commander of the Armed Forces. Some pS provided a long list of responsibilities that the President is tasked with (Belarus, Croatia, Georgia, Montenegro), but the majority of reports (particularly those which included relatively short answers) only mentioned the President's main role in the adoption and approval of defence plans and military strategy subsequent to the Government's proposals. The President generally holds executive power in matters concerning defence and security (Cyprus), though this power is sometimes shared with the Minister of Defence (Austria). Presidential powers are usually subject to parliamentary approval.

As the "guarantor of national independence, territorial integrity and respect for treaties"<sup>6</sup> (France), the President may be empowered to declare a state of war and order mobilization (Belarus, Estonia), introduce martial law (Belarus, Georgia), and decide on the use of the armed forces in fulfilling the international obligations of the State (Estonia). The President is generally responsible for "the management of crisis situations that affect the defence and strategic direction of military operations" (Spain).<sup>7</sup> In one pS, the President is empowered to decide on the "the entry, use, and dislocation of the military forces of another state in [its] territory... in special cases and in the cases provided for by law for the purposes of state defense" (Georgia). As part of a broad discussion of presidential powers in pS vis-à-vis defence and security issues across the reports, it was noted in one report that the President may veto defence authorization and appropriations bills passed by Congress; and the veto can only be overridden by a two-thirds majority in each house of Congress (US). In another pS, the President is entitled to dissolve the parliament in accordance to the constitution (Georgia). The President also appoints (France) and promotes officers (Estonia, Montenegro), and assigns high military ranks (Georgia).

The President works closely with the Prime Minister in certain pS, and may, upon recommendation of the latter, conclude a truce or declare a state of emergency in cases "when state bodies cannot exercise their constitutional powers in a normal fashion" (Georgia), which is usually subsequently submitted to parliament for approval. The President often chairs a high-level inter-ministerial body, or a variation of a defence or national security council, within the context of high-level decision making in this field. In one pS, the President decides (on the basis of a proposal by the Government) whether to participate in a military crises management operation, or whether to place a military unit on standby (Finland).

<sup>5</sup> Austria, Belarus, Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Lithuania, Montenegro, Poland, Spain, and the US.

<sup>6</sup> Original text: "garant de l'indépendance nationale, de l'intégrité du territoire et du respect des traités."

<sup>7</sup> Original text: "la gestión de las situaciones de crisis que afecten a la defensa y la dirección estratégica de las operaciones militares."





The role of the **Government** in the national decision-making process was discussed by 20 pS.<sup>8</sup> As the “supreme authority of the executive power” (Georgia) or as “charged with the management of defence planning processes” (Slovakia), the Government is “responsible for the highest executive power in all security situations” (Finland) and “for overall co-ordination of defence management” (Estonia). The Government generally has the broad authority to “make decisions concerning the entire organisation of the defence sector, within the framework set up by the Parliament in the defence decisions and in accordance with national laws” (Sweden). To this end, the Government “sets and carries out national policy; it has at its disposal the civil service and the armed forces” (France).<sup>9</sup>

The Government “defines its general policy” (Belgium),<sup>10</sup> “directs internal and external policy, the civil and military administration and the defence of the State” (Spain),<sup>11</sup> determines defence policy (Greece) and ensures its implementation (Spain) by “participating in national defence and... the co-ordination of the work of the ministries” (Hungary), as well as determines the “volume of material resources and budget allocations for defence needs” (Belarus),<sup>12</sup> among other responsibilities. In one pS, the Government also determines the organizational structure and size of the armed forces (Montenegro).

While most pS discussed the role of the Government in the defence decision-making process in broad terms, one outlined the authority of the Government to: “organize the development and implementation of state armaments programs and the development of the defence industrial complex; plan for the transfer (mobilization plans) of federal executive authorities, executive authorities of the constituent entities of the... Federation, local governments and the country's economy to work in wartime conditions, as well as plan to create stocks of material values of state and mobilization reserves; for the development of plans for the deployment on the territory of the... Federation of nuclear facilities, as well as facilities for the elimination of weapons of mass destruction and nuclear waste” (Russia).<sup>13</sup>

The Government is usually required to submit a report on defence and security to parliament (North Macedonia) for discussion and approval (Belgium), including on the “state of readiness of the defence sector, personnel policy implementation, and the overall state of the Armed Forces” (Croatia). The Government also develops a national security and/or defence strategy (Moldova, Montenegro). In one pS, it was noted that, while parliament has “some part” in determining the

<sup>8</sup> Belarus, Belgium, Canada, Croatia, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Moldova, Montenegro, North Macedonia, Russia, Slovakia, Slovenia, Spain, Sweden, and Switzerland.

<sup>9</sup> Original text: “détermine et conduit la politique de la Nation ; pour cela il dispose de l'administration et de la force armée.”

<sup>10</sup> Original text: “définit sa politique générale.”

<sup>11</sup> Original text: “dirige la política interior y exterior, la Administración civil y militar y la defensa del Estado.”

<sup>12</sup> Original text: “объемы материальных ресурсов и бюджетных ассигнований на нужды обороны.”

<sup>13</sup> Original text: “организации разработки и выполнения государственных программ вооружения и развития оборонного промышленного комплекса; планов перевода (мобилизационные планы) федеральных органов исполнительной власти, органов исполнительной власти субъектов... Федерации, органов местного самоуправления и экономики страны на работу в условиях военного времени, а также планов создания запасов материальных ценностей государственного и мобилизационного резервов; по разработке планов размещения на территории... Федерации объектов с ядерными зарядами, а также объектов по ликвидации оружия массового уничтожения и ядерных отходов.”





military posture of the State, the Federal Cabinet is responsible for decisions made subsequent to discussions, committee reports, and meetings held during times of crisis (Canada). In another pS, the Federal Council periodically develops and presents its security policy in a report, “but a wider public may be involved through a precursory study group, hearings or a consultation with an advanced draft” (Switzerland).

In one pS, the Government “resolves issues and bears responsibility for comprehensively meeting the needs of the Armed Forces, other troops and military formations in the necessary financial and material resources to protect the Republic... implements international treaties on collective security, disarmament and arms control” (Belarus).<sup>14</sup> In another, it was observed that it is “lawful for the Government to raise, train, equip, arm, pay and maintain” armed forces (Ireland). The Government is also empowered to “agree on the participation of the Armed Forces in missions outside the national territory” (Spain).<sup>15</sup>

One pS referred directly to domestic law in its response, stating that “military command of, and all executive and administrative powers in relation to, Defence Forces, including the power to delegate command and authority, shall be exercisable by the Government” (Ireland). Another pS also discussed governmental control of the armed forces, executed directly through governmental decisions and the authority of the Government to appoint officers to leading positions within the armed forces (Sweden).

The existence of **high-level inter-ministerial bodies** dealing with security and defence issues was specifically mentioned in 15 responses.<sup>16</sup> Within these, some pS highlighted the role of a **Prime Minister** (should one exist in their respective political systems) in their national decision-making processes.

The composition, tasks, and powers of national security and defence councils vary. In Bulgaria, the Council of Ministers is charged with “overall leadership” of the armed forces. In Greece, the Government Council for Foreign and Defence Affairs (GCFDA) is a “decision-making Governmental Body dealing with foreign and defence affairs,” which “formulates defence policy, approves long-term programming concerning defence capabilities, including major procurement programs of the Armed Forces, and evaluates crisis situations.” In Poland, the Council of Ministers develops national security strategy drafts and plans, as well as implements state defence preparations, along with planning for and developing the potential of the armed forces. The Polish Council of Ministers is also responsible for managing national security in times of peace, as well as ensuring internal and external security and exercising general control in the field of defence. In Lithuania, the National Defence Council discusses and co-ordinates all major issues of national defence. In

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<sup>14</sup> Original text: “решает вопросы и несет ответственность за всестороннее удовлетворение потребностей Вооруженных Сил, других войск и воинских формирований в необходимых финансовых и материальных ресурсах для защиты Республики..., выполнение международных договоров по вопросам коллективной безопасности, разоружения и контроля над вооружениями.”

<sup>15</sup> Original text: “acordar la participación de las Fuerzas Armadas en misiones fuera del territorio nacional.”

<sup>16</sup> Belarus, Belgium, Bulgaria, Estonia, France, Finland, Georgia, Greece, Lithuania, Moldova, Montenegro, Poland, Romania, Turkey, and the UK.







Turkey, the Council of Ministers is the authority that approves any multi-year procurement contract of the Turkish Armed Forces modernization projects, with respect to national defence requirements.

Some pS have various related councils and/or committees. For example, in Estonia, the National Defence Council includes high-level ministers and functions as an advisory body to the President of the Republic in matters of national defence; whereas the Security Committee is composed of ministers responsible for areas related specifically to national defence and approved by the Government, and “coordinates the activities of the authorities of executive power upon planning, development and organisation of national defence,” through activities directed by the Prime Minister. In Georgia, on the other hand, The Prime Minister is the Chairman of the Government and is responsible for appointing and/or dismissing all ministers, commanding the Defence Forces during a state of emergency and martial law, and deciding on the activation of these forces during martial law – a decision that does not require parliamentary approval. The Prime Minister of France is responsible for national defence, and “ensures the implementation of the measures decided in councils and committees chaired by the President of the Republic.”<sup>17</sup> In Poland, the Prime Minister facilitates and guides implementation of policies put forth by the Council of Ministers.

Most high-level inter-ministerial bodies include high-ranking members of the executive and offer advice to the head of State in matters of security and defence, such as in Belgium with the Conseil Supérieur de la Défense. The National Security Council of the UK “integrates at the highest level the work of the Treasury, the foreign, defence, home, energy and international development departments, and all other arms of Government contributing to national security.” In Belarus, the Совет Безопасности (Security Council) is the “highest collegiate co-ordination and political body,” which “determines the main directions of military policy, the principles of military construction of the Armed Forces, other troops and military formations, organizes, on a planned basis, the interaction between republican government bodies and structural components of the state’s military organization with the interest of providing military security,” and is “in charge of the issues of domestic and foreign policy affecting the interests of national security and defence... as well as the adoption of principal (most important) decisions on ensuring military security.”<sup>18</sup>

Some councils and/or committees are independent from the administration. In Romania, the Supreme Council of National Defence is an “autonomous administrative authority,” the role of which is to organize and co-ordinate security and defence activities, which remain subject to examination and verification by parliament.

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<sup>17</sup> Original text: “assure la mise en œuvre des mesures décidées en conseils et comités présidés par le Président de la République.”

<sup>18</sup> Original text: “высший коллегиальный координационно-политический орган,” which “определяет основные направления военной политики, принципы военного строительства Вооруженных Сил, других войск и воинских формирований, организует на плановой основе взаимодействие между республиканскими органами государственного управления и структурными компонентами военной организации государства в интересах обеспечения военной,” and is “находясь рассмотрению вопросов внутренней и внешней политики, затрагивающих интересы национальной безопасности и обороны... а также принятие принципиальных (важнейших) решений по обеспечению военной безопасности.”





While most of the descriptions offered by pS of these high-level inter-ministerial bodies were rather vague, some attempted to outline the scope of their activities. The Montenegrin Security and Defence Council, for example, is tasked with making decisions regarding command of the armed forces; approving plans on the use of armed forces; analysing and assessing the security situation and deciding on appropriate measures; proposing to parliament declarations of war or emergency; suggesting the deployment of armed forces in international forces; and assigning and dismissing armed forces officers and military diplomatic representatives.

More than half of pS described the role of the **Ministry of Defence (MoD) and/or Minister of Defence (MroD)** in the national planning and decision-making process.<sup>19</sup> A number of pS included a list of MoD responsibilities that directly referenced relevant constitutional or legislative codes (Croatia, Italy). One pS included a list of 52 areas of MoD competence (North Macedonia). The MoD is generally described as “the main specialized authority of the central public administration in the defence” (Moldova), “the central state administration body to control the defence” (Slovakia), “part of the Government and... the leader of its administrative sector” (Finland), “a republican body of state administration” (Belarus),<sup>20</sup> or “the main body in the system of central executive power” (Ukraine) for defence and security affairs. It was observed by another pS that, “in line with the constitutional division of responsibility between the Government and the authorities, the MoD is a comparatively small body” (Sweden).

As the “political secretariat” of the MroD, the MoD is generally “responsible for giving military advice to the Government, formulating new policy and providing overall management directives on a strategic level to the Chief of Defence” (Norway). The MoD was also described as “the authority for budgeting, procurement activities, defence industry, scientific surveys, political, legal, social, financial and budgetary services, construction and mapping” (Turkey). Generally, the MoD is in charge of the “management and implementation of defence policy, the implementation of laws governing this area, and the acceptance and preparation of proposals related to political, legal, organisational and other measures for the organisation and execution of defence” (Slovenia). In the preparation and implementation of defence policy, the MoD may also oversee the “organization and training of the armed forces, human resources policy, planning of staffing, equipment and infrastructure, in charge of external intelligence and intelligence of military interest” (France).<sup>21</sup>

The MoD is often in charge of conducting long-, medium-, and short-term defence planning as well (Albania, Croatia, Lithuania). This may entail “strategic level defence and operations planning, which includes management of personnel, equipment, armaments, finances, infrastructure,

<sup>19</sup> Albania, Austria, Belarus, Belgium, Canada, Croatia, Cyprus, Estonia, Finland, France, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Moldova, Montenegro, North Macedonia, Norway, Romania, Russia, Serbia, Slovakia, Slovenia, Sweden, Turkey, and Ukraine.

<sup>20</sup> Original text: “является республиканским органом государственного управления.”

<sup>21</sup> Original text: “organisation et entraînement des forces armées, politique des ressources humaines, programmation des effectifs, des équipements et des infrastructures, en charge du renseignement extérieur et du renseignement d'intérêt militaire.”





medical care and research and technology” (Austria). Another pS noted that the MoD “analyses political-military situation, participates and conducts the National Defence’s Strategy drafting process, develops Military Strategy, issues Defence Planning Directives and gives suggestions with regard to military budget as well as other defence-related documents” (Moldova). The MoD is also frequently responsible for financial planning and programming, to be subsequently submitted to parliament for approval (Italy). In this context, the DoD is therefore financially accountable to parliament for the expenditure of public monies on defence forces (Ireland). One pS reported, too, that the MoD carries out internal control and audit, while external control and audit are conducted by “authorised bodies” (Serbia).

It is common that the MoD is also tasked with co-ordinating projects which are “aimed at contributing to the development of allied defence capabilities and defence capabilities of the European Union;” which involve the armed forces in “peace support operations, crisis response operations, humanitarian operations and other activities abroad;” and which work within the “framework of international initiatives, organizations and alliances” to which the pS has acceded (or is in the process of acceding) (Croatia). In other pS, these types of decisions are shared with the Minister of Foreign Affairs (MrFA), with participation subject to consultation with parliament (Luxembourg). Generally, MoDs work closely with Ministries of Foreign Affairs (MFA) and Ministries of Finance (MoF). In one pS, the Minister of Home Affairs and National Security acts as the MoD (Malta). In another, it was noted that the defence agency has been abolished and defence-related functions have since been transferred to the police and the coast guard (Iceland).

One pS noted that the decision-making capacity of the MoD and the MroD is restricted by law (Hungary), but other pS did not delineate the scope of this power for comparison. For example, one pS reported only that the MroD is to “make decisions on the use of the Armed Forces... in other activities in the country” (Montenegro). In some pS, the MoD maintains general oversight over the army (Cyprus), while in others, the MroD directs the Chief of Defence (CHOD) and exercises supervisory control of the defence forces (Estonia). In another pS, the defence forces and CHOD are subordinate to the MoD (Finland).

Three pS explicitly mentioned the role of the **Ministry of Foreign Affairs (MFA)** in this context (Finland, Iceland, Luxembourg). In Finland, in cooperation with the MoD, the MFA “fronts the preparation of the governmental decisions in international crisis management,” and in Iceland, the MFA is “responsible for foreign policy aspects of defence and security and NATO matters.” In Luxembourg, the MFA decides on the participation of civilian missions in peacekeeping and humanitarian operations.

There were also three pS that specifically elaborated on the role of the **Ministry of Finance (MoF)** (Finland, North Macedonia, Slovakia). In Slovakia, the MoF participates in the defence planning process by managing budgeting, while in North Macedonia the MoF (along with the Government) defines the amounts/limits of resources allocated to the MoD. In Finland, the MoF establishes the financial guidelines for defence planning.





Just 11 pS<sup>22</sup> explicitly noted the role of the **Chief of Defence (CHOD)**, Chief of Staff, and/or the Armed Forces and its Headquarters (HQ), with one pS describing HQ as the “military element” of the DoD (Ireland). Another pS explained that the “General Headquarters of the Armed Forces of the Republic... is the central military command body that implements the operational management functions of the Armed Forces, ensures their high combat capability, organizes interaction and coordinates the activities of the structural components of the state’s military organization in carrying out defence tasks in both peacetime and wartime” (Belarus).<sup>23</sup> One described the HQ of the defence forces as the working body of the CHOD (Estonia), and yet another noted that “Defence Command functions as the supreme headquarters of the CHOD and also as the central administrative authority for the defence establishment” (Finland).

The Chief of Staff was described by one pS as “directly accountable to the Minister [of Defence] for the performance of these duties, which include responsibility for the military effectiveness, efficiency and organisation of the Defence Forces;” and though the Minister in this pS is allowed to derogate military command to the General Officers in charge, “in practice, matters relating to command are normally channelled through the Chief of Staff. In effect, this means that day-to-day operational control of the Defence Forces rests with the Chief of Staff for which he is directly responsible to the Minister” (Ireland). In another pS it was noted that the Commander of the armed forces has authority to command and control those forces and is also responsible for ensuring effective conduct of military operations (Turkey). One pS further emphasized that while the Supreme Commander exercises overall command of the armed forces, the Director General, a civilian, acts as the deputy head of the public authority (Sweden). In addition to commanding military operations, the CHOD is usually also “the government’s military advisor” and “assists the Minister in his/her duties relating to the employment of forces, is responsible for the operational use of the forces as for their preparation, their setting in condition of employment as well as the definition of the overall format of the armies and their capability coherence” (France).<sup>24</sup> The CHOD may be appointed by the President, the Government, and/or a high-level ministerial council.

Generally, HQ is charged with strategic planning and command, as well as defence procurement (Greece); but in some cases, may also be tasked with budgeting for the expenditures of defence forces and for their financial steering (Estonia), and with the “development and coordination of the activities of the individual services as well as for international co-operation” (Finland). Typically, the CHOD is responsible for “all matters related to the exercise of military command, including operational readiness” of the armed forces (Finland).

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<sup>22</sup> Austria, Belarus, Croatia, Estonia, Finland, France, Greece, Ireland, Montenegro, Sweden, and Turkey.

<sup>23</sup> Original text: “Генеральный штаб Вооруженных Сил Республики... является центральным органом военного управления, реализующим оперативные функции по управлению Вооруженными Силами, обеспечивающим их высокую боеспособность, организующим взаимодействие и координирующим деятельность структурных компонентов военной организации государства по выполнению задач в области обороны как в мирное, так и военное время.”

<sup>24</sup> Original text: “le conseiller militaire du gouvernement” and “assiste le ministre dans ses attributions relatives à l’emploi des forces, il est responsable de l’emploi opérationnel des forces comme de leur préparation, de leur mise en condition d’emploi ainsi que de la définition du format d’ensemble des armées et de leur cohérence capacitaire.”





Two pS provided specific figures on the strength of their armed forces. Austria reported that it has at least 12,500 soldiers available at all times for national disaster relief and that, on the international level, it is willing to provide at least 1,100 soldiers for crisis management operations involving a wide spectrum of tasks. Ireland reported that its approved Permanent Defence Forces establishment is 9,500, along with 3,869 in the Army Reserve and 200 in the Naval Service Reserve, with no fixed establishment for the First Line Reserve.

One pS (Belarus) mentioned the role of **local governments**: “Within their authority, local governments take part in state and public events held in the field of defence.”<sup>25</sup>

Two pS also noted the role of the **monarchy** within their national defence frameworks (Norway and Spain). In Norway, control of the armed forces is among the King’s constitutional prerogatives, “in principle meaning that the Parliament (Stortinget) may not give directions as to how this authority shall be exercised. This power is in practice exercised by the Government, and within the Government by the Minister of Defence.” However, since the introduction of parliamentarianism in 1884, the “Defence Minister is constitutionally and politically responsible to the Parliament for all activity carried out by the Ministry, by the armed forces as a whole and by other subordinate departments.” Spain simply acknowledged in its report that “supreme command of the Armed Forces is vested in the King.”<sup>26</sup>

### **3.1.1.2 Institutions and procedures ensuring democratic oversight and public scrutiny (RP 1.1.2)**

Many pS mentioned the role of **parliament** when discussing domestic oversight and accountability mechanisms.<sup>27</sup> One declared that their “constitution is based on the principles of popular sovereignty, representative democracy and parliamentarism. A parliament elected by the people occupies the pre-eminent position among the branches of government; it is the foundation for the democratic exercise of power through the Government” (Sweden).

Parliament is generally considered to be the “supreme representative body of the country, which shall exercise legislative power” to define the objectives of foreign and domestic policy within the constitutional framework (Georgia). Therefore, as the “supreme legislative body, [the Parliament] deals with defence-related issues primarily in the course of its law-making work and when defining basic state policy” (Poland).

<sup>25</sup> Original text: “Органы местного управления в пределах своих полномочий принимают участие в государственных и общественных мероприятиях, проводимых в области обороны.”

<sup>26</sup> Original text: “al Rey le corresponde el mando supremo de las Fuerzas Armadas.”

<sup>27</sup> Austria, Azerbaijan, Belarus, Belgium, BiH, Bulgaria, Canada, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Moldova, Montenegro, North Macedonia, Norway, Poland, Romania, Slovakia, Slovenia, Sweden, Switzerland, and the US.







In general, every parliament “exercises political control over governmental action” (Austria). This occurs through the adoption of laws and the ratification of international agreements (Finland, Estonia, Italy, North Macedonia), and by approving the deployment of armed forces (Denmark, Georgia). Further, a parliament “approves the main directions for domestic and foreign policy, controls executive bodies within the Constitution's limits, and approves the state budget” (Moldova), and also “monitors the implementation” of defence planning and preparation (Croatia). One pS noted that its parliament “makes the decisions on the central principles of defence by using its legislative, supervisory and budgetary powers in accordance with the Constitution” (Finland), and another reported that it “votes on laws that determine the fundamental principles of the general organization of National Defence and sets the rules concerning the subjections imposed on citizens” (France).<sup>28</sup>

Based on the proposals of Government, the parliament also “determines the basic principles of national defence in order to fulfil the defence objectives, as well as the conditions and direction of the accomplishment of duties prescribed in them, the guidelines of the long term upgrade and personal strength of the armed forces, the main military equipment upgrades and the required financial resources” (Hungary). Parliaments usually vote on draft laws concerning the armed forces and defence as well, when proposed by the Government (Belarus, Georgia, Italy).

In many pS, the Government (usually the head of State) proposes the introduction of a state of emergency, martial law, and full or partial mobilization, as well as declaring war or making peace, all of which are subject to parliamentary approval (Belarus, Georgia, Lithuania, North Macedonia, Romania). In one pS, mobilization is ordered by parliament upon the proposal of the President, though in the case of an aggression, the President may order a mobilization without awaiting a parliamentary resolution (Estonia). It was emphasized by another pS that the “right to raise and maintain military or armed forces is vested exclusively” in the upper and lower houses of parliament, with the constitution specifically prohibiting the raising of any military forces other than those raised by the upper and lower houses (Ireland).

Parliament “will typically decide on issues [such] as participation in international operations and financial allocations in relation to these specific missions” (Denmark), and parliamentary approval is required in order to deploy forces to “operations other than operations of collective security” (Estonia). In most pS, parliament must also be informed of any decision by the Government concerning “intervention of armed forces abroad,” usually within a few days of deployment (France).<sup>29</sup> In other pS, however, the process is reversed, whereby “the Government decides on... participation in a mission, but only after consulting Parliament” (Luxembourg),<sup>30</sup> or parliament may place limits on numbers of “servicemen and statutory civil servants as well as set the limits of military and civilian personnel participating in international operations in specific regions”

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<sup>28</sup> Original text: “vote les lois qui déterminent les principes fondamentaux de l'organisation générale de la Défense nationale et fixe les règles concernant les sujétions imposées aux citoyens.”

<sup>29</sup> Original text: “intervention des forces armées à l'étranger.”

<sup>30</sup> Original text: “le gouvernement décide de la participation... à une mission, mais seulement après consultation du Parlement.”





(Lithuania). In general, parliaments “are responsible for approving the laws related to defence and the associated budgetary credits; and controlling the action of the Government in defence matters and authorizing the participation of the Armed Forces in missions outside the national territory” (Spain).<sup>31</sup>

In many pS, parliament approves and/or has the “final say” (Switzerland) on defence expenditures as part of the state budget (Azerbaijan, Belarus, Belgium, Bulgaria, France, Greece, Iceland, Italy, Lithuania, Montenegro, Norway, Poland, US). In one pS, parliament exercises control over the armed forces through annual financial estimates (Malta), while another reported that its Department of Defence is financially accountable to a parliamentary committee for public accounts (Ireland).

Some pS mentioned the existence of several **parliamentary bodies** and/or committees that serve either an advisory or political role in this process. The National Defence Committee of Austria, for example, is a parliamentary body with “competence for examining legislative proposals in the defence sector, and at plenary meetings.” The Joint Committee of BiH has a longer list of responsibilities; in addition to the types of tasks mentioned above, it also “monitors and reviews the situation of human rights and freedoms in the defense and security sector;” “monitors compliance with the political, ideological and interest neutrality in the work of the supervised institutions;” and establishes “cooperation with competent parliamentary committees of BiH entities, other countries as well as with international organizations and other bodies in the domain of defense.” The Defence and Security Committee of Slovakia also plays a general defence sector oversight role and includes within its purview both the Ministries of Defence and Interior, as well as the Administration of State Material Reserves and the National Security Authority.

The role of **auditors** in democratic oversight was highlighted by one pS, where it is enshrined in the constitution that parliament appoints five general auditors to examine accounts annually and present a resulting report (Norway). A number of other pS also mentioned auditors, though in the context of defence budgeting and expenditure, which will be examined in detail below (RP 1.1.5).

One pS noted that its report on security policy “is drafted within the administration, but a **wider public** may be involved through a precursory study group, hearings or a consultation with an advanced draft” (Switzerland).

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<sup>31</sup> Original text: “a las Cortes Generales les corresponde aprobar las leyes relativas a la defensa y los créditos presupuestarios asociados; controlar la acción del Gobierno en materia de defensa y autorizar la participación de las Fuerzas Armadas en misiones fuera del territorio nacional.”





### **3.1.1.3 Checks and balances and chain of command in relation to democratic accountability and transparency (RP 1.1.3)**

Few pS discussed the **chain of command** as it relates to defence planning and decision making, and responses in this area varied widely. For example, one pS noted that the armed forces are a “complex organ of the public administration, which is shown not only by a systematic definition of its set-up and tasks under constitutional law but also by the fact that it is subject to the command authority of some of the highest administrative organs” (Austria). Those pS that did mention command issues generally did so within the framework of military command, particularly in relation to the CHOD and HQ (Finland). Some highlighted the command authority of other governmental bodies (Cyprus, San Marino).

A number of pS also described domestic processes for **democratic accountability**. One provided a list of institutions and organizations by which democratic political control of constitutional proceedings are conducted, including: parliament, the public attorney’s office, courts with various jurisdictions and focuses, an Ombudsman Board, disciplinary commissions, and a Federal Bureau of Anti-Corruption (Austria). Another pS emphasized that “no state government body has the exclusive responsibility for developing defence regulations, documents and plans” and that “responsibility concerning all issues, including determining/approving military position rests with several state government bodies, whose powers may include proposing, approving, discussing, providing opinions, adopting a particular document and making decision on a particular issue” (Croatia).

Two pS mentioned the role of the **judiciary** and/or specialized courts. One of these (Austria) identified the Constitutional and Administrative Court, the Court of Audit, nine Administrative Courts, a Federal Court of Administration, a Federal Financial Court, the Ombudsman Board, and the Data Protection Commission as control organs, but also reported that a Parliamentary Armed Forces Complaints Commission has been established and tasked with making “recommendations for dealing with complaints brought before the Federal Minister of Defence” and has also been entitled to “review ex officio suspected deficiencies and grievances in the military service.” In another pS, the “Court of Auditors assists the Parliament and the Government in the control of the execution of the laws of finances” (France).<sup>32</sup>

Within this context, one pS also discussed the role of **intelligence** services, both civil and military (Austria). Some pS specifically commented on the issue of **transparency** as well, through which all phases of decision-making “are conducted publicly, except for a very limited class of information related to particular programs that are classified in order to protect national security” (US). However, most mentions of transparency were made in the context of defence spending.

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<sup>32</sup> Original text: “Cour des comptes assiste le Parlement et le Gouvernement dans le contrôle de l’exécution des lois de finances.”





#### 3.1.1.4 Relationship between defence policy and the military posture (RP 1.1.4)

Quite a few pS alluded to “defence policy” and “military posture” in their reports.<sup>33</sup> However, many responses were vague, and most referred to the “changing security environment” (Hungary) as a factor for consideration as well as “compliance with international commitments” (Italy).<sup>34</sup> One pS also noted that “major changes in policy and/or doctrine are to be observed only during profound changes in international relations and in the security environment” (Belgium).<sup>35</sup>

Some pS listed a number of **national security objectives**, with one emphasizing the importance of protecting their people at home and abroad, projecting their global influence, and promoting their prosperity (UK). Another highlighted the need to “maintain full national sovereignty and integrity, protect constitutional institutions and critical infrastructure, protect the population, e.g. by way of disaster relief, support the national capacity to act in crisis situations of strategic magnitude, contribute to crisis management on the basis of solidarity, and contribute militarily, on the basis of solidarity, to the EU’s security policy activities” (Austria).

Specific defence **policy documents and procedures** were cited by some pS. For example, one pS discussed the existence of a “comprehensive assessment, which identifies the existing and potential specific danger or risk factors to national security,” on the basis of which the basic strategic principles and priorities for the prevention of danger to the State are developed (Latvia). Another pS mentioned a security policy report that lays out what the State “wants to apply in the field of security policy, and what the various security instruments contribute and how they cooperate to prevent, repel and overcome the threats and dangers” (Switzerland). In the same pS, subsequent to this report, the Government has “proposed an adaption of the defence capability to the geostrategic threat level as well as the financial and demographic situation, allowing for a reduction in structure and strength,” concluding that it was necessary to retain “a core military capacity and expertise to be able to repel a military aggression” (Switzerland). Yet another pS referred to their Basic Law in this context, stating that “pursuant to the Basic Law (GG), the numerical strength and the basic features of the organization of the... armed forces must result from the budget, passed... as part of the budget law” (Germany).<sup>36</sup> One pS referred to a Military Planning Directive (*Directiva de Planeamiento Militar*), in which “the Levels of Efforts that the Armed Forces should be able to carry out were established, the military capacity structure was determined and defined... and instructions were given to guide Military Planning. In this sense, the priorities, criteria and guidelines that would contribute to determining and prioritizing the needs of

<sup>33</sup> Austria, Belgium, Canada, Croatia, Denmark, Germany, Hungary, Italy, Kazakhstan, Latvia, The Netherlands, Poland, Romania, Slovenia, Spain, Switzerland, the UK, and the US.

<sup>34</sup> Original text: “conformità agli impegni assunti in sede internazionale.”

<sup>35</sup> Original text: “de grands changements de politique et/ou de doctrine ne sont à observer que lors de profondes mutations dans les relations internationales et dans l’environnement de sécurité.”

<sup>36</sup> Original text: “Die zahlenmäßige Stärke und die Grundzüge der Organisation der Streitkräfte müssen sich gemäß... des Grundgesetzes (GG) aus dem Haushaltsplan ergeben, der wiederum als Teil des Haushaltsgesetzes beschlossen wird.”





the Armed Forces were established” (Spain).<sup>37</sup> Another pS discussed a National Security Risk Assessment that organizes potential threats to domestic security into three tiers according to judgements as to both likelihood and impact, reporting that it “helped to inform... decisions about the relative importance of different national security capabilities, and choosing where to focus new investment and savings” (UK).

The **institutions** tasked with developing defence policy and military posture were mentioned by other pS, which noted for instance that the “basis for the planning and defence programming are the political and strategic decisions in the field of state's defence policy made by the supreme legislative and executive powers” (Poland). In another pS, “the lead for foreign and security policy, and hence for military posture and defence expenditures, lies with the government” (Switzerland). One pS noted that “the Cabinet controls the various means, diplomatic, economic and military, at the Government’s disposal to deal with routine or expected events, and to resolve crises. Ministers decide on the most effective approach to tackling a particular crisis, and the political decision to deploy the Armed Forces rests with the Cabinet” (UK).

### **3.1.1.5 Planning and accounting processes in the defence sector (RP 1.1.5)**

Responses to this RP formed the bulk of the substantive answers received from pS. This may simply be due to the broad scope of defence sector and accounting processes. Here, responses can be characterized as addressing the definitions and objectives of defence planning, defence planning processes, defence budget planning, long- and medium-term planning and strategy, domestic defence legislation and planning documents, reference to external priorities, and the various challenges and considerations that must be undertaken throughout the defence planning process. Most were focused on defence budgeting, which has been included within the purview of this RP as it was unclear under which RP responses of that nature would otherwise fall.

Two pS sought to outline the **definition and objectives** of defence planning (Czech Republic, Estonia). One of these was rather abstract, explaining that “defence planning is a set of processes designed to develop and maintain military capabilities to fulfil the task of national defence. It is a consistent, policy-based, organizationally managed and objective-driven activity informed by external developments, international defence commitments, security development trends, progress made and available resources” (Czech Republic); while the other referred directly to the “principles of defence management [which] are defined in the... Constitution, the National Defence Act, the Estonian Defence Forces Organisation Act and other relevant legal acts” (Estonia). Another pS referred to state planning in general, noting that “State planning covers the activities of public authorities and other participants in the development of the country, aimed at increasing the level

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<sup>37</sup> Original text: “se establecieron los Niveles de Esfuerzo que deberán ser capaces de llevar a cabo las Fuerzas Armadas, se determinaron y definieron la estructura de capacidades militares... y se dieron instrucciones para orientar el Planeamiento Militar. En este sentido, se establecieron las prioridades, criterios y pautas que contribuirían a determinar y priorizar las necesidades de las Fuerzas Armadas.”







of socio-economic development..., increasing the welfare of citizens and strengthening the security of the country”<sup>38</sup> (Kazakhstan).

In most cases, responses from pS regarding defence planning were formed in relation to **national legislation** and the **different institutions** involved in the process. However, there was no consistency in terms of the scope of these responses. For example, one pS emphasized that “the basis for the defence planning system is laid down in national legislation. The key institutions of defence planning include the Parliament, the Government’s Working and Coordination Body. The Ministry of Defence (MoD) plays a crucial role in overall management of Defence Planning and in co-ordination of measures ensuring the state’s readiness for defence. Defence Planning Process includes political objectives, and National Security Policy” (Albania); yet another noted only that the “planning and decision-making process is defined by the Constitution... and the Law on Defence and the Armed Forces of the Republic of Bulgaria. The President, the National Assembly, the Council of Ministers and other bodies are involved in this process” (Bulgaria).

Some pS provided a list of the **constitutional and legislative bases** for defence planning (Russia), with one pS laying out that planning processes are derived specifically from: the constitution, international treaties, a national security concept, military doctrine, national laws on defence, and other regulatory acts (Belarus).

References to the **MoD** described it as “an active participant in the interagency working process that collaboratively produces key strategic guidance” (Georgia), which often plays “a central role in the defence policy-making and defence management” (Lithuania) or “a crucial role in the overall management of defence planning and in coordination of measures ensuring national defence readiness” (Czech Republic), and may be tasked to develop “a guideline for the defence planning process detailing the force planning and procurement process” (Austria). Generally, the MoD is “tasked with the management and implementation of defence policy, the implementation of laws governing this area, and the acceptance and preparation of proposals related to political, legal, organisational and other measures for the organisation and execution of defence” (Slovenia).

One pS noted that “the planning process includes the adoption of normative legal acts on defence issues, the decision to use the Armed Forces, the consideration of issues of war and peace, the development of basic principles of military policy”<sup>39</sup> (Kazakhstan), while another stated that a three-tiered **decision-making mechanism** was in place to “enhance the effectiveness of defence planning, execution, coordination, monitoring and evaluation processes in the MoD,” consisting of a “Decision Making Board (DMB) chaired by the Minister, a Management Team (MT) chaired by a senior Deputy Minister of Defence and six Standing Working Groups. Internal thematic working

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<sup>38</sup> Original text: “охватывает Деятельность органов государственной власти и иных участников процесса развития страны, направленную на повышение уровня социально-экономического развития..., рост благосостояния граждан и укрепление безопасности страны.”

<sup>39</sup> Original text: “процесс планирования включает в себя принятие нормативных правовых актов по вопросам обеспечения обороны, решение о применении Вооруженных сил, рассмотрение вопросов войны и мира, разработку основных направлений военной политики.”





groups composed of the MoD and the General Staff mid-and lower-level representatives have been established to develop and review reform initiatives within their respective fields,” with these six thematic working groups focused on: material resource management, human resource management, education and training development, NATO integration and international co-operation, force planning, and cyber defence (Georgia). In a similar vein, another pS mentioned its Planning, Programming, Budgeting and Execution System, which is synchronized and in line with its national Integrated Planning System (IPS), as this improves resource coordination “and provides a sound decision-making of the government regarding the defence budget” (Albania). A Policy-Plan-Budget cycle was discussed by another pS, whereby “means are allocated to and within the Ministry of Defence in accordance with plans and priorities,” which are “the result of the relationship and interaction between political and organizational ambitions, tasks, capabilities and means. In order to improve this national defence planning, a methodology has been developed that reflects a joint interaction between the services and directorates and which integrates NATO and EU priorities. This methodology is the leading principle for the national planning system” (The Netherlands).

As such, some pS referenced defence planning in relation to their **participation in international organizations**. For example, one mentioned that “long-term Armed Forces development planning is governed by the rules of defence planning of NATO. Plans are drawn up in a ten-year planning horizon and updated every two years” (Poland). Another pS also noted that the Guidelines of the Minister of National Defence establish “priorities for the development of the National Defence System and general provisions of the future commitments related to the membership in NATO and the EU” (Lithuania). Moreover, one pS contextualized its national security strategy in terms of upholding its neutral status, responding that it develops its “security policy predominantly within UN, EU, OSCE, in its partnerships with NATO and within the Council of Europe” with “political commitments laid down in documents such as the Helsinki Final Act and subsequent core CSCE/OSCE documents as well as in the NATO/PfP Framework Document and the EAPC Basic Document” (Austria).<sup>40</sup>

Other pS discussed the planning process in relation to different **policy papers, guidelines, and/or other documents**. One noted that the “comprehensive defence planning system, as a key component of the overall defence management is focused on the development of strategic and conceptual documents, as well as on the documents of operational and implementation planning. It consists of strategic development, operational and implementation planning” (Croatia). In another pS, a “Defence White Paper provides general guidelines regarding the natural, human, material and financial resources that should be annually allocated for defence needs, to develop capabilities enabling the accomplishment of the Military missions,” and the “Defence Planning Guidance issued by the Ministry of National Defence serves as a base to allocate defence resources. Those are allocated in fulfilling the actions and measures established by the Major Programs (elaborated for a 10-year period and annually revised)” (Romania). Yet another pS noted

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<sup>40</sup> Conference on Security and Co-operation in Europe/Organization for Security and Co-operation in Europe (CSCE/OSCE); North Atlantic Treaty Organization/Partnership for Peace (NATO/PfP); and Euro-Atlantic Partnership Council (EAPC).





that its National Security Strategy (NSS) and a Strategic Defence and Security Review (SDSR) White Paper “gives rise to a document called Defence Strategic Direction (DSD). DSD contains direction on all aspects of Defence activity, including MOD’s Arms-length Bodies, and addresses how the NSS/SDSR will be implemented over the long-term and within the resources available. It includes a number of Defence Planning Assumptions, which are classified. These outline the size of operations the military expects it might be required to undertake, the type of operation, where they may occur (distance from permanent bases), and who they may be conducted with. The Assumptions serve as a planning tool to guide development of forces rather than a set of fixed operational plans or a prediction of the precise operations that will be undertaken” (UK). Similarly, one pS mentioned three core defence planning documents: *The National Security Plan*, based on the strategy and principles determined by the National Security Concept and including specific measures for the neutralization and prevention of danger to the State, and drawn up and approved by the Cabinet of Ministers within a year after approval of the National Security Concept; *The State Defence Plan*, prepared based on the Analysis of Military Threat and the principles determined in the State Defence Concept, which determines specific State defence measures, priorities and necessary resources, as well as the necessary readiness and activities of the armed forces, which is drawn up by the MoD in cooperation with other ministries and approved by the Cabinet of Ministers; and *The National Armed Forces (NAF) Development Plan*, which determines the prospective twelve-year development of NAF infrastructure, personnel, equipment, material, technical facilities and the estimated state resources required to fulfil the Plan (Latvia). Another pS observed that its “defence planning process is structured according to the law on defence planning” and is “implemented on the basis of strategic and intra agency planning documents” (Georgia).

The defence planning process was described in **chronological** terms by some pS, with one outlining a one-year process comprising four steps: political guidance (the production of a single Ministerial Guidance that sets the broader strategic direction); defining requirements (strategic objectives are broken down into more concrete tasks and subtasks); implementation (objectives and associated tasks and subtasks are realized through Medium-Term Plans); and review (production of a Defence Review Report) (Czech Republic).

In the same vein, some pS differentiated between **long-, medium-, and short-term** defence (or strategic) planning. Among these responses, however, there was no generally accepted timeframe for the length or scope of the long-, medium-, or short-terms. In some cases, pS did not differentiate between long- or short-term plans at all, but instead used a years-based framework; for example, in one pS, a “three-year strategic plan contains mission, vision, strategic goals, actions to achieve them and their correlation with the organizational and programme classifications, and performance evaluation measures” (Croatia). Another pS mentioned its “Long-Term Perspective for Defence, a policy document, which covers the next 15 years and is updated every 4 years,” and “identifies long-term requirements based on future trends analysis (security environment, technology, etc.) in order to fulfil, in the long-term planning horizon, the political-military ambitions laid out in the *Defence Strategy*.” In this pS, there is also a “a classified document... [which] covers the next 10 years and is also updated every four years,” and a Ministerial Planning Guidance that is updated annually to reflect both long-term and development





plans that establish “the strategic planning objectives for the next 8 years (the fiscal year + 2 fiscal outlook years + 5 years into the medium-term)” (Czech Republic). There was one pS that defined the long-, medium-, and short-terms, explaining that “the national planning process... is represented by the State Planning System – a set of interrelated elements consisting of principles, documents, processes and participants of state planning, ensuring the development of the country for a long-term (over 5 years), medium-term (from year to 5 years) and short-term (to 1 year) periods”<sup>41</sup> (Kazakhstan). Two pS discussed defence planning in terms of planning cycles (The Netherlands, Spain).

Some pS sought to differentiate between **defence planning and defence budgeting**, though most provided responses that demonstrated the inherent link between the two. For example, one pS observed that “Program budgeting is based on Program planning which is the main and crucial element in evolving the defence expenditures. It includes programmes, sub programmes and other sources, which help to fulfil all tasks that are important for the defence” of the State (Slovakia). Similarly, another noted that “the national planning process in determining defence expenditures... is the strategic planning, which includes defence planning. The defence planning is an integral part of the strategic planning system and state resources management in the defence domain exercised within the legal period. The defence planning is aimed to provide the required level of defence capabilities of state through justification of development prospects of the Armed Forces... and other military formations given the nature of real and potential threats in military domain and economic capabilities of the state, indicating concrete measures, executors and timeframes” (Ukraine). To this end, the MoD may work closely with the MoF, for example, “in the process of state planning and decision-making, ensuring the determination of defence expenditures, by submitting to the Ministry of Finance estimates of the needs of the Ministry of Defence in allocations from the republican budget for the next financial year” (Belarus).<sup>42</sup>

Regarding **defence budgeting**, pS generally reported that “the National planning and decision-making process in determining/approving defence expenditures is part of the state budget developing process” (Croatia). As part of the state budget, the MoF provides guidelines for the defence budget (Finland), or the MoD is responsible for establishing these guidelines (Estonia), to be approved by parliament, usually on an annual basis (Armenia, Denmark, Estonia, Finland, Greece, Hungary, Iceland, Italy, Luxembourg, Poland, Portugal, Romania, San Marino, Serbia, Slovenia), and promulgated by the president (Estonia, Turkey). The Commander and/or HQ of defence forces may also be “responsible for budgeting for the expenditures of defence forces” (Estonia) and for “financial steering” (Finland). In one pS, “for the defence budget... neither government-specific legal regulations nor any other special regulations apply. Like every other

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<sup>41</sup> Original text: “процесс национального планирования... представлен Системой государственного планирования – комплексом взаимосвязанных элементов, состоящим из принципов, документов, процессов и участников государственного планирования, обеспечивающим развитие страны на долгосрочный (свыше 5 лет), среднесрочный (от года до 5 лет) и краткосрочный (до 1 года) периоды.”

<sup>42</sup> Original text: “в процессе государственного планирования и принятия решений, обеспечивающих определение расходов на оборону, путем представления в Министерство финансов расчетов потребности Министерства обороны в ассигнованиях из республиканского бюджета на очередной финансовый год.”





section of the federal budget, it is drawn up annually as part of the draft budget law in the Federal Government under the auspices of the Federal Ministry of Finance, passed by the Federal Cabinet and then passed by the... Bundestag as a law” (Germany).<sup>43</sup> Another pS emphasized that “Congress has power over the military budget, and it also has the power to enact legislation imposing substantive restrictions on the size and composition” of military forces (US).

### 3.1.1.6 *Figures on the defence budget and expenditures (RP 1.1.6)*

A limited number of pS provided figures on their defence budgets and expenditures. One noted that “the size of the federal budget and thus also of the defence budget is ultimately determined by the amount of the federal government's probable revenues, taking into account any net borrowing, which in turn is subject to constitutional limits” (Germany).<sup>44</sup>

Still, eight pS provided specific **defence expenditure** figures. In Bulgaria, defence expenditures for fiscal year 2017 were 1,193,319,000 BGN. In the Czech Republic, the 2018 MoD Budget Chapter amounted to CZK 58,893,351 thousand, and the index for 2018/2017 is 1.12, meaning that military expenditures, as defined by the Vienna Document based on the UN methodology, represented an amount of CZK 58,804,407 thousand for fiscal year 2018. In Hungary, the government is committed to increasing the defence budget to at least 2% of GDP by 2024 and keeping this level from 2025 onwards. In Italy, defence expenditures represented around 1% of GDP in the preceding two years. Total defence expenditures of the MoD in Lithuania constituted 723.8 million EUR, or 1.73% of GDP in 2017. The Government of North Macedonia is committed to financing defence with up to 2% of GDP. In Switzerland, parliament approved an annual defence budget of 5 billion Swiss Francs in 2016. Finally, in Ukraine, the Military Doctrine envisages at least 3% of GDP to be allocated for defence.

Three pS also discussed plans for future **defence budgeting**. Austria noted that “in the context of government budget cuts, not only the military sector is affected, almost all Austrian Ministries have had to make substantial savings. The MOD has announced an austerity package, which also includes cuts in investment, in personnel costs and in operating costs,” with the annual ratio of the defence budget (exclusive pensions) to the GDP (in millions) as follows: €2,211 (0.62 % GDP) for 2017; €2,258 (0.58% GDP) for 2018; €2,288 (0.57% GDP) for 2019; €2,423 (0.58% GDP) for 2020; €2,148 (0.50% GDP) for 2021; and €2,192 (0.50% GDP) for 2022. Austria's budgetary framework reflects the “continuation of a special investment programme out of the plan AAF 2018 of € 82

<sup>43</sup> Original text: “für den Verteidigungshaushalt gelten... weder ressortspezifische gesetzliche, noch sonstige besondere Regelungen. Er wird jährlich – wie jeder andere Einzelplan des Bundeshaushalts auch – im Rahmen des Entwurfs zum Haushaltsgesetz in der Bundesregierung unter Federführung des Bundesministeriums der Finanzen erarbeitet, vom Bundeskabinett beschlossen und anschließend als Gesetz vom... Bundestag verabschiedet.”

<sup>44</sup> Original text: “der Umfang des Bundeshaushalts und somit auch des Verteidigungshaushalts wird letztlich bestimmt von der Höhe der voraussichtlichen Einnahmen des Bundes unter ggf. Berücksichtigung einer Nettokreditaufnahme, die wiederum verfassungsrechtlichen Grenzen unterliegt.”







million, 2019 € 87 million and 2020 € 93 million [and] about € 100 million may be credited to the defence budget out of the remaining infrastructure sale.” In Belgium, the budget of the Department of Defence was decreased, and in 2015 a plan was proposed to “reduce headcount to 27,000 and investments to EUR 9.2 billion by 2030” (Belgium).<sup>45</sup> Annual military expenditures from the state budget in Poland should not be less than 2% of GDP in 2017-2019, increasing 0.1% every few years until reaching 2.5% of GDP in 2030 and beyond. Moreover, 27.5% of the total defence budget in Poland is allocated to capital investment expenses (modernization of the army, hardware purchases, and infrastructure maintenance), and 2.5% to R&D.

### **3.1.1.7 Restructuring, modernization and privatization programmes in the defence sector (RP 1.1.7)**

Several pS mentioned ongoing or planned defence restructuring, modernization, and privatization programmes. In Armenia, as part of a long-term planning strategy, “transformation efforts are carried out in areas of doctrine (methods, tactics, [techniques] and procedures of warfare), defence (strategic) planning, military education, human resources management, and command and control.” The overall structure of the MoD and the armed forces were modified in Austria. In the Czech Republic, implementation of the *Czech Armed Forces Development Concept 2025* will focus on recruiting personnel as well as modernizing and procuring new equipment. Georgia noted that “further development of defence regulatory legislation is ongoing and is expected to be adopted in foreseeable future,” which will outline the organization of the state defence and the management of the armed forces, as well as serving as a basis for developing other national agencies. In Poland, the Act of 22 February 2013 on the restructuring, modernization, and financing of the Polish Armed Forces regulates the direction of the development of those forces, including by defining rules for planning, sources of financing, and defence spending limits. In Spain, a defence policy directive was established with the purpose of “orienting the structural changes of the Armed Forces towards the achievement of an organizational model that prioritizes operative capacity, the suppression of organizational redundancies, improvement in the management of the Armies and co-ordination in common and joint organs.”<sup>46</sup> Lastly, in Ukraine, changes to the defence planning system are being addressed in the transition to capabilities-based planning, which offer the “possibility to plan the development of defence forces in a more quality manner and harmonize defence and budget planning.”

<sup>45</sup> Original text: “prévoit la réduction des effectifs à 27 000 hommes et des investissements à hauteur de 9,2 Mia EUR à l’horizon 2030.”

<sup>46</sup> Original text: “orientando los cambios estructurales de las Fuerzas Armadas hacia la consecución de un modelo organizativo que prime la capacidad operativa, la supresión de redundancias organizativas, la mejora en la gestión de los Ejércitos y la coordinación en órganos comunes y conjuntos.”





### **3.1.2 General observations**

The overarching issue with responses to this question was a lack of description concerning the ways different institutions described by pS as part of the national planning and decision-making processes inter-relate to determine and/or approve military posture and defence expenditures. In this vein, while pS often provided a long list of responsibilities with which each institution may be tasked, the omission of details regarding how these institutions interact makes it appear that their responsibilities overlap.

The absence of a common understanding of oft-used (technical) terminology is also evident within the context of this question, with terms such as “democratic oversight,” “democratic accountability,” “public scrutiny,” and “accountability” often used interchangeably. Vague usage of these terms lends to a vague determination of the roles and responsibilities of the institutions involved in these processes. In some cases, pS utilized the same terminology in different contexts, or vice-versa, adopting different terms in relation to the same subject matter.

It remains striking that the process to determine and/or approve “military posture” was generally not discussed by pS either. Many focused instead on the process related to “defence expenditures;” and the one RP directly addressing the “relationship between defence policy and the military posture” was generally left unanswered. It is unclear why this is the case. It is also worth noting that “defence expenditures” were often described as “defence budgeting.”

The last two RPs in this section illustrate the tendency of pS to address only some RPs and not others. In analysing the reports submitted by pS, it has been illuminating to take note which RPs invited more responses. Given the particularly clear scope of the last two RPs under Q 1.1, it seems that pS simply opted not to provide responses in some contexts. Of course, it is also important to take note of which RPs pS answered.

#### ***3.1.2.1 The role of the executive, including the head of state and/or government, as well as key governmental security and defence advisory bodies (RP 1.1.1)***

Few reports specifically delineated the scope of presidential powers. Of those pS that did discuss the role of their head of State, many provided only limited descriptions, with just a few exceptions offering a lengthy, unambiguous list of presidential responsibilities. While some reports mentioned the constitutional limits of presidential powers, many did not elaborate upon the role of the head of State within the national decision-making process and had a tendency to instead discuss the roles of and relationship between the Government and parliament in this context. Reports generally did not examine the scope of powers and the accountability mechanisms in relation to the President in the role of Commander-in-Chief or Supreme Commander of the armed forces, nor did the reports elaborate on the relationship between the President and the MoD and/or CHOD. In general, most of the responses from pS that mentioned the role of their head of State were brief and did not clearly depict their scope of responsibilities in relation to defence.





In contrast, discussions of the role of the executive generally did not address the interaction and/or relationship between the executive and other branches of government, in particular with parliament. These responses often described the executive as having broad powers to propose defence policy and set budgets, which are rather sweeping in scope. This may be due to the tendency for pS to directly address the role of the MoD and/or specific high-level ministerial councils rather than the Government in abstract terms.

There are some commonalities in the composition of high-level inter-ministerial bodies. However, since the scope of their powers varies widely, it is challenging to draw out similarities related to their responsibilities. Moreover, responses in this area generally did not discuss the constitutional or legislative basis for the creation of these councils, lending to an overall lack of transparency regarding the national planning and decision-making powers of these bodies. Beyond these vague descriptions of the powers with which these bodies are endowed, reports rarely made clear the types of issues that fall squarely within their purviews and whether these bodies serve an advisory role or are empowered to make independent decisions on defence questions. In some pS, there are various bodies tasked with addressing defence-related questions, which may be composed of different ministers and/or high-level officials, contributing further to a lack of clarity when it comes to delineating the scope of their powers.

A majority of pS discussed the role of the MoD and placed a strong emphasis on its role in developing defence policy and defence budgets. Usually, the MoD is involved in a broad array of defence sector management tasks; and while some pS reported that the executive generally puts forward defence plans, in others, the MoD is central to this process. However, few pS described the issues and considerations taken into account as a precursor to decision making that impacts the military posture. In this vein, it is surprising that few pS discussed the role of the CHOD and/or the armed forces, particularly given the fact that they often play an important role in ensuring operational readiness.

There was a high level of divergence among reports as to the level of specificity concerning the role of the executive, including the head of State and/or the Government, as well as key governmental security and defence advisory bodies. Some pS limited their responses to only one sentence listing various actors in the decision-making process, whereas others also included a list of responsibilities for each actor, directly quoted from relevant constitutional and/or legislative articles. This discrepancy in responses does not lend to a coherent and cohesive depiction of the allocation of powers and prerogatives to decision-making actors on defence and security issues in pS. For example, the relationship between different executive bodies and/or ministries vis-à-vis control and command of the armed forces is unclear. This is particularly evident when it comes to determining which executive body is the final decision-maker regarding the use of armed forces in both times of war and peace.

The variance in these responses may be due to a lack of clarity concerning the depth of detail desired. A singular emphasis on the “role” of the executive appears to lead to responses that are, for the most part, not interlinked; and hence, many responses fail to outline a general national





planning and decision-making framework, but instead describe various actors and bodies in a siloed manner. It would be beneficial, for future coherence, if the responses of pS could provide both descriptions of different executive bodies and their core responsibilities, including but not limited to the categories highlighted above (including heads of State, governments, ministerial-level councils and/or specialized committees, the MoD, the MFA, the MoF, and the CHOD), as well as of the decision-making process vis-à-vis each actor and to whom each actor is accountable.

The way this question is currently framed in fact limits responses to descriptions of only the processes that relate to military posture and defence expenditures in each pS. Even within this context, though most pS discussed processes linked to defence expenditures, only a few elaborated on the procedures by which their military postures are established.

### ***3.1.2.2 Institutions and procedures ensuring democratic oversight and public scrutiny (RP 1.1.2)***

This section is particularly interesting, as responses in this area reflect which aspects of parliamentary control over the armed forces each pS wishes to emphasize. While a majority of pS mentioned the role of parliament as an oversight mechanism, many were vague about the processes through which decisions are, or could, be publicly scrutinized. Aside from brief mentions of auditors and, in one case, input from the wider public, the contributions of no other institutions were discussed in the context of providing oversight to the national planning and decision-making process. The extent to which these decisions involve parliaments (or other institutions) is thus unclear. Furthermore, parliaments are usually referred to as monolithic organs. The responses of pS included only limited discussion regarding the different processes and procedures used within their parliaments to conduct oversight and foster discussion and public scrutiny.

Moreover, beyond several descriptions of the parliamentary role in adopting and approving certain types of governmental proposals, few pS provided any details concerning the processes and/or procedures by which their parliaments debate, discuss, and decide whether to proceed with such proposals. Thus, it is difficult to determine the degree to which the public, or even parliamentarians outside of specialized committees, are aware of or part of decision-making processes. The composition, mandate, and powers of these abovementioned parliamentary bodies (if any) are also not elaborated, lending further to a lack of clarity regarding their role in providing oversight. Additionally, though there are often multiple parliamentary bodies tasked with addressing defence and security issues, pS generally did not report which bodies were responsible for which issues.

Beyond this, responses to RP 1.1.2 were particularly difficult to differentiate from those to RP 1.1.3 (see below), as it appears that the contours of “democratic oversight” and “public scrutiny” were understood differently by each pS. For this reason, the choice was made to include only references to “oversight” or the role of parliament within the scope of this RP. In this context, some pS also referred to other institutions involved in the process of exercising democratic oversight, including





various executive organs and councils. However, for the purposes of attempting to delineate between RPs 1.1.2 and 1.1.3, responses that cited accountability mechanisms and procedures within the executive were examined under RP 1.1.3.

Still, while references to parliament fulfil the part of the RP that mentions “institutions,” few pS discussed the procedures that facilitate democratic oversight and public scrutiny. References to parliamentary control may be seen as alluding to these two aspects, but there was little reporting of any other procedures that contribute to this end. For example, only a few pS discussed the role of auditors, and almost none mentioned whether any independent bodies facilitate oversight of this process. While one pS explicitly noted the role of its citizens in the decision-making process as part of its efforts towards greater public scrutiny, this practice was practically non-existent across pS.

### ***3.1.2.3 Checks and balances and chain of command in relation to democratic accountability and transparency (RP 1.1.3)***

It is uncertain what this sub-section was intended to elicit in light of the responses it brought forth. While there is a distinction between democratic oversight and democratic accountability, many pS did not clearly differentiate between the two, and instead reported on constitutional oversight mechanisms and the role of parliament and its bodies within this process (discussed in RP 1.1.2). As noted above, there is a clear lack of consensus on what is encompassed by “democratic accountability,” with pS using the same vocabulary for disparate contexts.

It is also evident, when examining the scope of this RP, that most pS did not elaborate upon the relationships between different branches of government that serve to hold each one accountable to another, i.e. “checks and balances.” One would expect, especially within this discussion, that pS would highlight the mechanisms with which each branch of government is held to account for actions taken in the context of national planning and decision-making. While some pS did mention the role of the judiciary and/or specialized courts, discussion of these mechanisms was limited. This was a prevailing issue in responses to this section, with the role and functions of each organ generally described as separate and distinct from each other, which does not impart an overarching understanding of the national planning and decision-making process.

Moreover, only a few pS elaborated specifically on a “chain of command” in response to this RP. Some mentioned command authority and/or command responsibility, though this was usually restricted to the role of the President and/or CHOD. Consequently, to whom the command of the armed forces is accountable was hardly discussed. In addition, given this is the only RP that raises chain of command and accountability issues, it is striking that such a low number of pS offered details in this area. It is also surprising that only a few pS discussed transparency in unambiguous terms, especially since it was mentioned explicitly in the language of the RP.







It is clear that the way this RP is formed limits the types of responses it prompts, by inviting responses that describe “checks and balances and chain of command” solely in relation to “democratic accountability and transparency,” thereby narrowing its scope. As a result, pS do not discuss these elements separately, but rather vis-à-vis these two aspects of the RP. Checks and balances and chain of command could be discussed more generally within the context of national planning and decision-making, which would allow for more discussion of the relationships between different branches of government (relating to the previous RP).

#### **3.1.2.4 Relationship between defence policy and the military posture (RP 1.1.4)**

It is striking that few pS directly addressed the relationship between defence policy and military posture. Indeed, they did not elaborate generally on how one informs the other and vice-versa, nor did they discuss the issues under consideration in the development of defence policy and in decisions taken in relation to the military posture. While acknowledging that these types of issues fall within the scope of national security and are inherently politically sensitive, even vague discussion in this area was limited. It may be that some pS instead discussed these issues within the context of defence sector planning, though that section (see below) is focused more on the processes that take place than on the considerations taken into account.

Moreover, the manner in which some pS described existing defence policy documents suggests that the relevant documents are somewhat static, and thereby embody a long-term view of defence policy in relation to military posture. There was little discussion of policy and/or procedures that would kick in if a quick response and/or change in military posture were required. Again, though, this relationship is an inherently sensitive topic, and so it is not surprising that so many pS opted not to provide responses to this RP.

#### **3.1.2.5 Planning and accounting processes in the defence sector (RP 1.1.5)**

In discussing defence planning, pS centred the role of the executive, and in particular the MoD, in developing defence plans; however, when elaborating upon defence budgeting, it is clear that parliaments usually have the final say over defence expenditures. Therefore, parliament is usually described as having “control” over the defence planning and budgeting processes, which are inherently interlinked. Proposals usually originate from the executive and are then subject to approval by the legislature. Still, it is challenging to extract similarities in the process by which each pS develops defence plans, on the basis of different policy documents, advisory bodies, and strategic timeframes, from the responses received. One clear example of this relates to the scope of long-, medium-, and short-term planning, as one pS may define long-term to mean 15 years and another may define it as 5 years. Along these lines, pS also develop different types of policy and guidance documents, as well as various strategic defence plans – each serving a different purpose within any given national defence framework.





Most pS discussed the institutions involved, and the processes undertaken, in determining their defence budget and expenditures. In a majority of pS, the executive, and in particular ministries of defence and finance, propose defence budgets and expenditures, which form part of the overall state budget that must be approved by parliament. The similarities among pS, however, end there.

It is notable that few pS discussed the procedure by which their defence budget is approved, such as the considerations taken into account by parliament prior to approving projected expenditures. Only a handful of pS referenced the constitutional basis and/or relevant legislative act(s) governing defence planning and budgeting. While some described defence policy guidance documents in great detail, most did not provide any details at all in this regard.

Moreover, many pS discussed defence planning and budgeting together, and a significant proportion discussed only defence budget planning in this context. Broad references by pS to the defence budgeting process were situated under the purview of this RP, while references to specific figures were included in RP 1.1.6 (see below). Given that RP 1.1.5 specifically referred to accounting processes in the defence sector, it is striking that most pS did not elaborate on this issue.

#### **3.1.2.6 Figures on the defence budget and expenditures (RP 1.1.6)**

Few pS provided detailed figures on their defence budget and expenditures. Since this is a relatively straightforward RP in comparison to others, it is evident that pS generally opted to omit a response. However, the pS that provided specific figures did so in great detail.

#### **3.1.2.7 Restructuring, modernization and privatization programmes in the defence sector (RP 1.1.7)**

Responses to this RP by pS were rare, which may be true for a number of reasons, including that some pS have no ongoing programmes of this type or may not want to report on such programmes.





### 3.1.3 In Focus: Switzerland

As can be observed in Table 1 below, Switzerland has dedicated a similar number of words in their response to Q 1.1 in the years 2010, 2014, and 2018. Switzerland was one of the few pS that voluntarily **highlighted** the changes made to their responses every year. However, since this section does not examine reports from consecutive years, the responses in the table below are included in their original format (i.e. original text in ***bold italics***) for reference only, and do not reflect the changes year-by-year.

Switzerland's responses to Q 1.1 in the three years under consideration retained a similar structure. While some descriptive paragraphs remained unchanged, those discussing the content and scope of the report on security policy were revised on multiple occasions.

Switzerland does not organize its responses pursuant to the RP outlined in the *2010 Reference Guide*. As a result, while its responses do touch upon most of the topics in the *Guide*, Switzerland has opted to respond only to the RPs it deems relevant to its particular context. This approach is followed by most pS and allows respondents not only to pick and choose the issues they wish to address, but also to address several interrelated topics at the same time. While Switzerland does not strictly follow the list of RPs, the overarching question (i.e. *What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?*) is broadly attended to in their responses.

**Table 1: Switzerland's responses to Question 1.1 in 2010, 2014, and 2018 (full text, emphasis original)**

2010 (166 words)	2014 (163 words)	2018 (162 words)
The lead for foreign and security policy, and hence also for the military posture and defence expenditures, lies with the government i.e. the Federal Council. Within the parameters set by the Federal Constitution, the Federal Council develops and presents periodically its policy in a report on security policy. This paper is drafted within the administration, but a wider public may be involved through a precursory study group, hearings or a consultation with an advanced draft. The report covers the whole spectrum of Swiss security policy: threats and dangers, the international environment, interests and objectives, basic strategy and the instruments of security policy as well as organisational and resource matters. It determines a general outline for the military posture.		
<div> <div> <i>Until now, reports on security policy were elaborated roughly every ten years (the previous report dated from the year 2000). The current report on security policy dates from 2010. From now on however, the report on security policy is intended to be updated or rewritten at a more frequent interval. The next report on security policy is planned to be submitted to Parliament in 2015.</i> </div> <div> / </div> <div> These reports define the guidelines for Swiss security policy for the next five to ten years. The last such report was published in August 2016. As usual, the draft of the report was submitted to the cantons, parties and associations for consultation prior its approval by the Federal Council. The report was presented to Parliament for debate in the course of 2017 (not for formal approval as it is merely a policy document of the government). The focus of the new report is on analysing Switzerland's security policy environment. This applies particularly to the deterioration of the relationship between the West and the Russian Federation, the accentuation of the Islamic terror threat, the challenges of the actual migration crisis, the undreamt extent of illegal activities in cyberspace and – as the greatest challenge – the possible combination and mutual reinforcement of various threats. The report lays out what strategy Switzerland wants to apply in the field of security policy, and what the various security instruments contribute and how they cooperate to prevent, repel and overcome the threats and dangers. </div> </div>		





The currently relevant document for Swiss security policy is "Security through Co-operation - Report of the Federal Council to the Federal Assembly on the Security Policy of Switzerland (Report 2000 on Security Policy)" of 7 June 1999. It was submitted to the Parliament and was acknowledged by the National Council on 22 December 1999 as well as by the Council of States on 21 March 2000. From now on, the report on security policy shall be updated or totally rewritten every four years, starting in 2010. **The drafting process for a new report on security policy is currently ongoing.**

***The current Report on Security Policy was complemented by the Report 2010 on the Armed Forces. Therein, the Federal Council proposed a reduction in defence capability beyond 2015 adapted to the current geostrategic threat level, financial and demographic situation, allowing for a substantial reduction in structure and strength. It concluded that Switzerland had to retain but a core military capacity and expertise to be able to repel a military aggression. Since a conventional military threat against Switzerland in the distant future cannot be ruled out completely, Switzerland will retain its core military capacity and military expertise to be capable of repelling such aggression. Subsequently, the Federal Department of Defence, Protection of the population and Sports (DDPS) elaborated in detail the concept of the future Armed Forces within the planning parameters of 100'000 armed forces personnel and an annual defence budget of 5 billion Swiss Francs. The ensuing modifications of the Law on the Armed Forces will be subject to parliamentary approval in the second half of 2014. The legal modifications and along with them the adapted concept for the Armed Forces will enter into effect no sooner than 1st of January 2017.***

The new Security Policy report confirms the planned reform of the Armed Forces that was initiated by the Armed Forces Report 2010 that was published alongside with the last Security Policy Report 2010. Therein, the Federal Council proposed an adaption of the defence capability to the geostrategic threat level as well as the financial and demographic situation, allowing for a reduction in structure and strength. It concluded that Switzerland had to retain but a core military capacity and expertise to be able to repel a military aggression. Since a purely conventional military threat against Switzerland in the distant future cannot be ruled out completely, Switzerland will retain its core military capacity and military expertise to be capable of repelling such aggression. Subsequently, the Federal Council proposed to Parliament the concept of the future Armed Forces within the planning parameters of 100'000 armed forces personnel and an annual defence budget of 5 billion Swiss Francs. The ensuing modifications of the Law on the Armed Forces were approved by parliament in early 2016. The legal modifications and along with them the adapted concept for the Armed Forces entered into force on 1 January 2018.

Government reports on security policy are published and submitted to parliament for discussion. Parliament can acknowledge them or refuse to do so, but it cannot amend the reports, as they reflect the Government's policy and intentions.

However, any amendments to existing laws or promulgation of new laws that may be needed for the implementation of the security policy are subject to parliamentary approval and a facultative referendum: If more than 50'000 citizens sign a call for a referendum within a hundred days, the adoption of these laws must be submitted to a referendum. This instrument has been used repeatedly.

Parliament has the final say on defence expenditures, as part of the federal budget. The budget proposal submitted by the Federal Council is first discussed in the respective parliamentary committees of both chambers (in the case of the defence budget by the Committees on Finance) before being presented to the plenary session. Moreover, the two chambers of Parliament vote separately on requests for appropriations by the Federal Council on procurement programmes for the Armed Forces (including weapons and ammunition) and military construction programmes (both drafted by the DDPS) on the basis of annual requests. (2018 version, minor changes in 2010 and 2014)

In the past, it was the rule that the report on security policy (dealing with the entire scope of security policy) was followed within a few years by so-called Armed Forces guidelines, dealing solely with the Armed Forces and specifying the military posture, including the Armed Forces' missions, organisation, training, etc. The last Armed Forces guidelines were drafted in 2001. The need to adapt the Armed Forces more frequently than in the past to new requirements or conditions may lead the government to drop Armed Forces guidelines for more frequent and less comprehensive documents on Armed Forces development. As is the case with reports on security policy, projects laid out in Armed Forces guidelines are subject to parliamentary approval in-so-far as they involve amendments to laws or expenditures.





### 3.2 **Question 2.1: What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?**

**Reference points:**

1. *Constitutionally established procedures for ensuring civilian control and democratic oversight;*
2. *Cross-departmental co-ordination and public scrutiny beyond the State;*
3. *Special information about civilian control and reforms in the police;*
4. *Structure, oversight, reform, and privacy protection in relation to civilian/domestic intelligence services;*
5. *Special information regarding the basic structure of the armed security sector;*
6. *Special information about civilian control and reforms on paramilitary and/or internal security force;*
7. *Trends towards the privatization in the security sector/PMSCs.*

Source: 2010 Reference Guide (FSC.DEL/142/10, 2 November 2010)

In 2018, a considerable majority of pS provided information under Q 2 of Section II. When reporting on their constitutionally established procedures for ensuring democratic and political control over military, paramilitary, internal security forces, intelligence services, and the police, the responses of 19 pS included descriptions of these procedures and links to relevant legislation. A total of 14 pS reported on the control of intelligence services. In response to Q 2.2, 19 pS also described the role of parliament (or its subsidiary bodies) in controlling the armed forces, and 14 provided additional information on the role of different government branches. Of the 34 pS that replied to Q 2.3, 8 pS offered descriptions of the decision-making process that precedes the deployment of armed and/or security forces, both nationally and/or internationally. Some pS provided this information in other parts of the report, such as in Section I, Q 2.1, or in Section II, Q 1.1, 2.1, and 2.2.<sup>47</sup>

For the purposes of Q 2.1, three pS noted that they have no military, paramilitary, intelligence, or internal security forces in their domestic security infrastructure (Andorra, Iceland, Liechtenstein) and could thus provide only descriptions of their police forces. One pS did not respond to Section II of the Questionnaire (Monaco), and one submitted their report with one page missing (Moldova). Four pS referred to information included in other parts of their reports in their responses to this

<sup>47</sup> See OSCE, “Statistical Overview of the 2018 Information Exchange on the OSCE Code of Conduct on Politico-Military Aspects of Security” (FSC.GAL/64/18, 7 June 2018), p. 12.







question (Estonia, Finland, and San Marino to Section II, Q 1.1; and Germany to Section II, Q 2.2). Finally, two pS noted that responses given in previous years remain valid (Holy See, Mongolia).

### 3.2.1 Overview of responses

#### 3.2.1.1 *Constitutionally established procedures for ensuring civilian control and democratic oversight (RP 2.1.1)*

Responses to this RP can be divided into the following broad topics: constitutional reforms, separation of powers and the role of the judiciary, civilian control of the armed forces, democratic oversight, command authority and/or leadership of the armed forces, accountability mechanisms, state of emergency powers, and armed forces abroad. As a way of organizing these responses, procedures relating to the armed forces and/or the military are included within the purview of this RP.

Five pS discussed **constitutional reforms** that concerned the armed forces. One provided a list of new amendments to their constitution (Georgia). Another emphasized that, due to a transition from a semi-presidential to parliamentary form of governance, there will be significant changes relating to civil and democratic control of the armed forces with an enhanced role for the National Assembly and Government, and further reforms that will have an “impact on the ‘strategic level’ of the chain of command and corresponding command and control arrangements” (Armenia). The parliament in another pS amended its law on defence and the armed forces in 2017, introducing “a new structure of the Ministry of Defence, called ‘an integrated model’ to ensure the defence of the state and to provide leadership and command of the Armed Forces in peacetime” (Bulgaria). Similarly, another pS referred to an armed forces act amended in 2016 to add further provisions to protecting service police independence (UK). One pS also referred to a constitutional reform process that was undertaken in 1995 and established that no action may arbitrarily infringe on the fundamental rights of individuals (Finland).

Some pS discussed the constitutional **separation of powers**, whereby the “principle of democratic control over the Armed Forces... as one of the fundamental principles of building a democratic society, is stipulated... through division of powers of the ruling bodies” (Bulgaria). A number of pS described this separation of powers in brief, explaining for instance that “Parliament [Milli Majlis] exercises legislative power; executive power belongs to the President and courts exercise judicial power” (Azerbaijan), while others offered more detailed descriptions of each constitutional organ (France, Italy). Some pS emphasized that their constitution “provides for the subordination of the military organization to the ‘political-strategic summit’ composed of the highest constitutional bodies: President of the Republic, Parliament and Government” (Italy),<sup>48</sup> whereas others highlighted the constitutional role of the judiciary within this context of separation of powers. In

<sup>48</sup> Original text: “prevede la subordinazione dell’organizzazione militare al ‘Vertice politico-strategico’ composto dai massimi organi costituzionali: Presidente della Repubblica, Parlamento e Governo.”





general, “judges are in no way subject to the authority of Parliament or the Government when called upon to deliver justice” and “the judicial courts are responsible for resolving civil disputes involving the Defence and imposing penalties for soldiers who have committed criminal offenses” (Belgium).<sup>49</sup> The response of one pS noted that judicial control over state security bodies is exercised during court trials for criminal cases, including those for “abuses committed by state security members as well as illegal actions made by citizens against state security members and officeholders” (Moldova). In another pS, the Supreme Court may hear appeals from the Court of Appeals for the Armed Forces in criminal cases (US). The courts also play a similar role in another pS, exerting “legal protection of military personnel, civil and criminal cases in the Armed Forces, other troops and military formations” while the General Prosecutor is tasked with “supervision over the accurate and uniform application of laws, decrees of the President... and other regulatory legal acts in the Armed Forces, other troops and military formations” (Kazakhstan).<sup>50</sup> In yet another pS, while public prosecutors monitor and oversee “laws of the state security structures; the financial control of their activities is executed by the Court of Audit” (Moldova).

Almost all the pS that provided an answer to this RP dedicated their responses to describing the constitutional provisions for **civilian control** of the armed forces. Many elaborated on the basic principles, purposes, and enforcement of civilian control, usually referencing the constitutional provision to this effect, as well as mentioning the role of parliament in this context. Some pS were brief in their responses, noting only that “armed forces and security services are under democratic and civilian control” (Montenegro); “the government’s security and defence forces are subject to parliamentary control” (The Netherlands); or “the Armed Forces are under civilian control both in peacetime and during time of war” (Cyprus). Others were slightly more explicit that the armed forces are “at all times subject to democratic control. The Government is accountable to Parliament for the defence of the country and is responsible for the administration of, and the control over, the Armed Forces” (Greece). One pS noted that “as in other democratic states, the [armed forces] are controlled and answerable to the elected government of the day” (Malta). Some pS went further, providing a list of parliament’s responsibilities in ensuring civilian control (Lithuania), while others mentioned the existence of democratic parliamentary control through “established procedures of different forms of questions and interpellations to the ministers in the Parliament” (Norway). Similarly, in another pS, “any parliamentarian may raise questions to the Government or request the appearance of any Defence-related Authority, be it civil or military, to enforce this control” (Spain).<sup>51</sup>

<sup>49</sup> Original text: “les juges ne sont en rien soumis à l’autorité du Parlement ni du Gouvernement lorsqu’ils sont appelés à rendre la justice” and “les juridictions judiciaires sont chargées de résoudre les litiges civils impliquant la Défense et d’infliger des peines aux militaires ayant commis des infractions pénales.”

<sup>50</sup> Original text: “правовую защиту военнослужащих, рассмотрение гражданских и уголовных дел в Вооруженных Силах, других войсках и воинских формированиях,” while the General Prosecutor is tasked with “надзор за точным и единообразным применением законов, указов Президента... и иных нормативных правовых актов в Вооруженных Силах, других войсках и воинских формированиях.”

<sup>51</sup> Original text: “todo parlamentario puede elevar preguntas al Gobierno o solicitar la comparecencia de cualquier Autoridad relacionada con la Defensa, sea civil o militar, para hacer efectivo este control.”





There were other pS that were more abstract, with one reporting for instance that it had “established civil-military relations in accordance with the traditions of other democratic states” (Estonia). Another noted that “democratic control over the Armed Forces... is based on the authority of the political factor over the military one within the civil-military relations” in which “subordination of the military structures to the democratically-elected civil authorities is an essential element” that ensures the armed forces act within the framework of the constitution and existing legislation (Moldova). One pS explained that its constitution and other legal acts “on civil-military relations provide a clear delineation of authority and a system of subordination and command and the control echelon of defence structures in times of peace, crises and war. They provide for the civilian democratic control of the Armed Forces at the strategic level, whereas at the operational level the command and control is held by military authorities” (Albania). In another pS, it was observed that the “division of the decision-making responsibility and authority between the civilian and military components is respected. Defence issues, including ways of using finances allocated from public sources for building national defence and also the position of the armed forces in the society, concern all the citizens” (Czech Republic). Another pS provided a lengthy description of the aims and basic principles of civilian control, alongside detailed references to relevant constitutional provisions and legislative acts (Ukraine).

Some pS referred to other institutions involved in ensuring civilian control, including the parliament, president, judiciary, MoD, a cabinet of ministers, state/public audit offices, and ombuds institutions (Austria, Azerbaijan, Belgium, BiH, Latvia, Malta, North Macedonia, Poland, Romania, Tajikistan). One noted that democratic control of the armed forces is ensured by the “principle of the primacy of politics in defence matters and by the rule of law,” and that the armed forces are effectively controlled by the following constitutional procedures: the authorization procedures of the Federal Assembly, popular initiative, and mandatory/optional referendum (Switzerland).

Regarding **democratic oversight** mechanisms, some pS described the role of parliament and parliamentary committees in greater detail, with one elaborating on the role of parliamentary ombuds institutions in this context (Sweden). In general, it was acknowledged that “Parliament is clearly vested with the oversight authority” (Albania), with “important defence-related issues examined during parliamentary sessions” (Moldova). In one pS, “a parliamentary faction, a group of at least seven members of Parliament shall have the right to pose questions to the Government, bodies accountable to Parliament, and particular members of the Government whose obligation is to answer questions at the meeting of Parliament” (Georgia), and in another, “Parliament’s Security and Defence Committee, in accordance with a separate law, conducts parliamentary oversight over state organs and institutions in the field of security and defence” (Montenegro). Moreover, parliaments generally exercise control over both defence expenditures (Turkey) and the size of the armed forces (UK). There is also one pS in which Congress is empowered to “lay and collect taxes, to provide for the common defence, to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the government and regulation of the land and naval forces, to provide for calling forth the militia to execute the laws of the union, to suppress insurrections and repel invasions, and to provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service” of the State (US).





Some pS mentioned a State Audit Office as well, described as an independent body appointed by parliament to exercise economic control over the activities of public institutions, state enterprises, and other public organizations, as well as the use and preservation of public property (Estonia).

A number of pS also discussed the **command authority** and/or the leadership of the armed forces, particularly within the context of ensuring accountability. Responses in this category generally referred to the authority of a president to act as or appoint the Supreme Commander/Commander-in-Chief of the armed forces (Albania, Armenia, Azerbaijan, Georgia, Lithuania, Montenegro, The Netherlands, US). One pS noted that its president retains the right to veto any law or decision adopted by parliament, should it concern: a declaration of war or the stipulation of peace, the structure and number of armed forces, the appointment and promotion of personnel, the importation of military equipment, the provision of bases and other facilities to friendly countries, and issues of security, distribution and allocation of security forces, emergency measures, and military law (Cyprus). Another mentioned the role of the king, who “commands the Armed Forces within the limits set by the Constitution and subject expressly to ministerial responsibility” though in practice, “it is the Minister of Defence who carries out the fixed policy on Defence [and] any important decision is taken by the Council of Ministers” (Belgium).<sup>52</sup> The response of another pS noted that the Minister of Defence is the civilian in charge of the MoD, who “conducts his function in the area of administrative, organizational, and command authority as well as control and inspection” of the armed forces (BiH). Some pS described the chain of authority that applies to their armed forces (Hungary, Ireland). Others pointed out that military personnel in active duty “cannot be elected or appointed in other state offices and cannot participate in political parties or other political activities” (Albania, Lithuania). A number of pS also noted that the Minister of Defence is accountable to parliament for all defence matters (Albania, Denmark, Latvia, Lithuania, Norway, UK).

Constitutional oversight mechanisms in times of **emergency** were discussed by a number of pS, as well as the power to **deploy** armed forces abroad. In one pS, “when the institutions of the Republic, the independence of the Nation, the integrity of its territory, or the execution of its international commitments are threatened in a serious and immediate manner, and the regular functioning of the constitutional public authorities is interrupted, Article 16 of the Constitution allows the President of the Republic to take the measures as required by the circumstances. It also provides that the actions of the State remain under the control of the Constitutional Council. Parliament continues to sit and cannot be dissolved during this period” (France).<sup>53</sup> In another, an Emergency

<sup>52</sup> Original text: “commande les Forces Armées dans le cadre des limites fixées par la Constitution et sous réserve expresse de la responsabilité ministérielle,” though in practice, “c’est le Ministre de la Défense qui mène la politique fixée en matière de Défense [et] toute décision importante est prise par le Conseil des Ministres.”

<sup>53</sup> Original text: “lorsque les institutions de la République, l’indépendance de la Nation, l’intégrité de son territoire ou l’exécution de ses engagements internationaux sont menacées d’une manière grave et immédiate et que le fonctionnement régulier des pouvoirs publics constitutionnels est interrompu, l’article 16 de la Constitution permet au Président de la République de prendre les mesures exigées par les circonstances. Il prévoit également que les actions de l’Etat restent toujours sous le contrôle du Conseil Constitutionnel. Le Parlement continue à siéger et ne peut être dissout durant cette période.”





Management Service was created under the Prime Minister's office, to provide the effective prevention of emergency situations and conduct rapid emergency response (Georgia). The circumstances in which armed forces may be deployed in times of peace is, in another pS, governed by emergency powers legislation (UK).

A few pS discussed the power to deploy armed forces abroad and/or as part of **international operations**. In general, parliamentary consultations are required prior to the participation of armed forces in international peacekeeping operations (Latvia, Lithuania, Luxembourg). One pS noted that "the armed forces are tasked with protection of liberty, independence, sovereignty and territorial integrity of the state, assistance in prevention and rehabilitation of large-scale natural disasters, catastrophes and accidents threatening the human lives or the property. In addition, the Armed Forces... contribute to international security by participating in multilateral operations (UN, OSCE, NATO, and EU)" (Slovakia). A constitutional amendment in one pS "reflects the political will... to submit to the control of the representatives of the nation the sending and the maintenance of its armed forces abroad" (France).<sup>54</sup>

### **3.2.1.2 Cross-departmental co-ordination and public scrutiny beyond the State (RP 2.1.2)**

This RP received the lowest number of responses in this section, perhaps because it is unclear what entails '**cross-departmental co-ordination**' in this context, as constitutional procedures (the previous RP) usually prescribe cross-departmental co-ordination regarding defence issues. For example, one pS observed that "although executive power is independent within the limits of its authority, the executive power, including the State Security Service and Ministry of Defense cooperates with the Parliament during the relevant legislation process. Upon invitation by the Parliament, Ministry of Defense and other relevant bodies provide the Parliament with appropriate reports and designate its high level representatives to the meetings of the Parliament's respective Commission" (Azerbaijan). Similarly, another pS noted that state bodies authorized by the President exercise control over the activities of internal affairs bodies, and internal affairs agencies supervise the precise and uniform execution of legislation by the Attorney General (Belarus). The response of one pS listed the interactions between various branches of government (Russia), while another described the role of the Ministry of Finance as well as the "State Administration Authorities in the Field of Taxes, Fees, and Customs" (Slovakia).

Five pS sought to describe their processes for **public scrutiny beyond the State**. Some referred to the constitutional right of citizens to "receive complete and reliable information about the activities of state bodies, political, economic, cultural and international life, as well as the right to participate in the resolution of state affairs both directly and through freely elected representatives" (Belarus,

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<sup>54</sup> Original text: "traduit la volonté politique de la France de soumettre au contrôle des représentants de la nation l'envoi et le maintien de ses forces armées à l'étranger."





Kazakhstan),<sup>55</sup> while another mentioned that citizens and organizations can submit enquiries to “a standing parliamentary committee dealing solely with defence and emergency management [which] is set up to scrutinize bills and proposals on defence and emergency management issues for parliamentary resolution” (Denmark). One pS noted that “defence issues, including ways of using finances allocated from public sources for building national defence and also the position of the armed forces in the society, concern all the citizens” (Czech Republic). Another specifically outlined the role of citizens, explaining that “federal decrees and the ratification of international treaties may be subject to popular vote either mandatorily or at the request of 50’000 citizens (optional referendum),” and that “at the request of 100’000 citizens, any military matter can be subject to a popular vote for a constitutional amendment (people’s initiative)” (Switzerland).

### **3.2.1.3 Special information about civilian control and reforms in the police (RP 2.1.3)**

Responses by 27 pS provided information about the police.<sup>56</sup> These responses fell into the topics of: structure, purpose and/or powers, civilian control, oversight, reforms, and complaints bodies and/or systems. This section served as an overall point of confusion, though, as some pS referred to “internal security forces” and “police forces” interchangeably, for example explaining that, “in Italian law the internal security forces are the Police Forces” (Italy),<sup>57</sup> and others distinguishing between the two types of forces (in response to RP 2.1.6, relating to paramilitary and/or internal security forces).

With regards to the **structure** of the police, two pS discussed the roles of the police forces at both the federal and local levels (Belgium, Switzerland), with one explaining for example that, at the federal level, “the Federal Police Council allows the administrative and judicial police authorities to play a major role in the elaboration of the national security plan and in the monitoring of its execution,” whereas at the local level, “mayors remain responsible for the administrative police in the territory of their commune.” Details were also provided by this pS concerning “mono-communal police zones” and “multi-municipal areas” (Belgium).<sup>58</sup> In another pS, issues related to the police forces and police authorities are primarily cantonal competences, and therefore the responsibility of each canton, which has its own sovereign police force, along with those of some major cities. These cantonal police agencies and numerous municipal agencies are not

<sup>55</sup> Original text: “получение полной и достоверной информации о деятельности государственных органов, политической, экономической, культурной и международной жизни, а также право участвовать в решении государственных дел как непосредственно, так и через свободно избранных представителей.”

<sup>56</sup> Albania, Andorra, Belgium, BiH, Canada, Cyprus, Denmark, Finland, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Moldova, Norway, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Switzerland, Tajikistan, and Turkey.

<sup>57</sup> Original text: “nell’ordinamento italiano le forze di sicurezza interna sono le Forze di Polizia.”

<sup>58</sup> Original text: “le conseil fédéral de police permet aux autorités de police administrative et judiciaire de jouer un rôle majeur dans l’élaboration du plan national de sécurité et dans le suivi de son exécution,” whereas at the local level, “bourgmestres restent responsables de la police administrative sur le territoire de leur commune.” Details were also provided concerning “zones de police monocommunes” and “zones pluri-communes.”







subordinated to federal authorities and their commanding officers report to the head of the respective cantonal or municipal department of police, who is a member of the cantonal or municipal governing council (Switzerland). Similarly, in another pS, legislation requires the head of the local police to report “annually to the local governing authority (council)... on the public safety situation of the area of jurisdiction, on measures taken to the benefit of public safety, on the duties connected as well as relations between the police and the local council,” and to provide a number of opportunities for co-operation between the police and local government (Hungary). One pS noted that its national (and largest) police force is the mounted police, which “provides policing services (under contract) to all provinces and territories” (except two) and “to approximately 200 municipalities and communities” (Canada). Another pS differentiated between policing to combat crime (criminal police), and to keep public order (Moldova). A number of pS described the police as organized under the auspices of their Ministry of Interior (Austria, Belarus, Iceland, Romania, Slovakia), or under the Ministry of Justice and Public Order (Cyprus). In one, the “the Cabinet of Ministers, the Minister of the Interior and local government institutions control the activities of the police within the scope of their competence” (Latvia).

Some pS described the **purpose and powers** of police forces. The level of detail in these responses varied. For example, one pS explained that the main powers stipulated in its police law are “search, arrest, detention, interrogation, and other powers specifically vested within the police by virtue of any law in force” (Cyprus); while another reported that its federal police service is mandated to “enforce federal laws, secure... borders between ports of entry, collect criminal intelligence, and ensure the safety of critical infrastructure, internationally protected persons and other designated persons; investigate serious and organized crime, financial crime and criminal activity related to national security; and, conduct international law enforcement capacity-building, support... international peace operation and advance domestic police operations through enhanced visibility, reach and influence abroad” (Canada). Yet another noted that “the Police Forces (State Police, Carabinieri Force, Guardia di Finanza) have general jurisdiction in matters of order protection and public security and have the duties of Judicial Police” (Italy).<sup>59</sup> Some pS discussed the role of the police in relation to investigations and criminal proceedings (Iceland), which include in one pS “all judicial police missions assigned to it by law, including the search for crimes and offences and the execution of judgments and judicial warrants, under the supervision of the State Attorney General” (Luxembourg).<sup>60</sup>

A number of pS described the extent of **civilian control** over police forces, though these responses were less detailed than those presented in the previous section in relation to the armed forces. In the context of control over police forces, the role of parliament or the judiciary was usually mentioned. One pS reported for instance that “democratic control of the armed forces and the

<sup>59</sup> Original text: “le Forze di Polizia (Polizia di Stato, Arma dei Carabinieri, Guardia di Finanza) hanno competenza generale in materia di tutela dell’ordine e sicurezza pubblica ed hanno attribuzioni di Polizia Giudiziaria.”

<sup>60</sup> Original text: “toutes les missions de police judiciaire qui lui sont attribuées par la loi et notamment la recherche des crimes et délits ainsi que l’exécution des jugements et des mandats judiciaires, ceci sous le contrôle du Procureur général d’Etat.”





execution of the above by the military, intelligence services and the police are effected through parliamentary approval of government draft laws concerning the budgetary and legal prerequisites of these institutions” (Slovenia), and another that it is “the binding rules of the performance of the... Police Forces that ensure its political and democratic character are of the exclusive legislative competence of the Parliament” (Portugal), and yet another that “political control of the actions of the Police Forces is therefore assured by the Parliament which, in general, can make use of the institution of ‘trust’ and in particular cases can set up Commissions of inquiry on matters of public interest with the same powers and the same limitations as the Judicial Authority” (Italy).<sup>61</sup> Similarly, in one pS, “civilian control of the... police is ensured by the fact that the police are under the jurisdiction of the Ministry of Justice” (Norway), and in another, “powers of the police are set out in statute and all their actions are subject to review by an active and constitutionally independent judiciary” (Ireland). Some pS mentioned other state institutions, for instance noting that civil and democratic control of the police “is achieved through the Assembly..., Ministry of Interior and the Ombudsman” (Albania). Moreover, “ministries and police agencies at the lower levels of government also have constitutionally established procedures ensuring the effective, democratic control over their activities” (BiH).

Along a similar vein, several pS outlined the **oversight** mechanisms in place relating to police forces. Again, these responses were divergent, with one pS noting that “the General Prosecution and public prosecutors execute general oversight over the police” (Moldova), and another citing the existence of “an autonomous entity – General-Inspection of Internal Administration – which has the mission to assure the auditing, inspection and supervision at the highest levels, on the matters of Police Forces,” to effectively ensure respect for “human and fundamental rights in order to enhance the quality of the police actions on a Democratic State” (Portugal). Another pS has established an independent Policy Authority that oversees the “the corporate governance, structures and performance of the Garda Síochána in the policing area” (Ireland). In another, the “Police Commissioner General has established the Procedure of internal control of police bodies” (Lithuania).

Few pS discussed their internal **complaints bodies** and/or ombuds offices in this context, though one pS linked these institutions to ongoing or past **reforms** in this sector. One pS did provide a detailed overview of its complaints procedure, complaints committee, oversight in the handling of complaints, and how the settling of complaints is supervised (Serbia). Another described various recent reforms in detail, including those concerning the complaints process against police officers, police conduct and criminal proceedings involving police personnel, and legal representation. In addition to outlining this complaint mechanism, this pS summarized the scope and powers of its Ombudsman (Denmark). Another pS elaborated on the powers of its Ombudsman as well (Portugal), and one pS provided a short overview of its complaints mechanism (Iceland). One pS mentioned a new law aimed “at rendering the functioning of law enforcement complaint system

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<sup>61</sup> Original text: “controllo di natura politica sull’operato delle Forze di Polizia è quindi assicurato dal Parlamento che, in generale, può avvalersi dell’istituto della ‘fiducia’ ed in casi particolari può istituire Commissioni d’inchiesta su materie di pubblico interesse con gli stessi poteri e le stesse limitazioni dell’Autorità Giudiziaria.”





more effective and swift, as well as enhancing its transparency and credibility” (Turkey). The reforms adopted in another pS also relate primarily to strengthening its Ombudsman Commission, as well as to the freedom of information (Ireland). In one pS, criminal procedures and the competences of the police force on the federal and cantonal level are now regulated by federal law (Switzerland).

#### **3.2.1.4 Structure, oversight, reform, and privacy protection in relation to civilian/domestic intelligence services (RP 2.1.4)**

More than half of pS mentioned the existence of intelligence services in the national framework, offering varying degrees of detail.<sup>62</sup> Topics for this question include: structure, oversight, reform, privacy protection, and powers of the intelligence services. Much like the previous section, pS again focused less on the intelligence services than on the armed forces; but it is clear from this overview that the intelligence services of pS share few similarities – not only featuring varying reporting standards, but also linked to vastly different structures and systems. This made it challenging to draw out commonalities in the responses.

As to the **structure** of intelligence forces and/or agencies, pS mostly named the ministry under which intelligence actors are organized, typically either the Ministry of Defence or the Ministry of Interior, and often accountable to the Council of Ministers and/or the President. A number of pS have several intelligence services, each with different mandates, powers, and accountability mechanisms (Estonia, Finland, Hungary, Latvia, Romania, Slovakia, Switzerland).

Four pS outlined the **powers** granted to intelligence services. For example, one noted that the intelligence services were authorized to “collect intelligence on foreign states or foreign nationals in relation to the defence... or the conduct of the international affairs” (Canada), while another observed that its intelligence agency “has the task of researching and processing all the information useful for the defence of national security against threats from abroad, as well as the task of identifying and countering outside the national territory espionage activities directed against Italy and those aimed at damaging national interests” (Italy).<sup>63</sup> In another pS, “the national security services may carry out concealed information collection activities and use secret methods, in certain cases subject to external authorisation granted by a judge or the Minister of Justice” (Hungary). One pS mentioned that “operational activities carried out in order to verify previously obtained credible information about crime, or to establish its perpetrators and to obtain evidence of crime, may consist in a secret acquisition or interception of objects obtained by crime, objects

<sup>62</sup> Albania, Austria, Azerbaijan, Belarus, Belgium, BiH, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Moldova, The Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Switzerland, and Tajikistan.

<sup>63</sup> Original text: “ha il compito di ricercare ed elaborare tutte le informazioni utili alla difesa della sicurezza nazionale dalle minacce provenienti dall'estero, nonché il compito di individuare e contrastare al di fuori del territorio nazionale le attività di spionaggio dirette contro l'Italia e quelle volte a danneggiare gli interessi nazionali.”





which are subject to forfeiture or objects whose production, possession, transportation or trade in are prohibited,” and that “operational activities carried out in order to record such crimes, to establish the identity of the perpetrators, or to intercept the objects of crime, the Head of the Internal Security Agency may, prior to the initiation of the criminal procedure, order a secret surveillance of the production, transfer, storage and trade in objects of crime, on condition that it would not endanger the life or health of any person” (Poland).

Regarding **oversight** mechanisms, most pS referred to parliamentary control and supervision of intelligence activities through the “approval of government draft laws concerning the budgetary and legal prerequisites of these institutions” (Slovenia). Usually, special commissions and/or committees (both parliamentary and executive) are set up for this specific purpose.

Four pS discussed ongoing or recent **reforms** of their intelligence services (Czech Republic, Italy, Poland, Slovakia), though these responses were vague and only explained when certain changes had come into effect, without much description of the relevant amendments.

One pS mentioned **privacy protection**, whereby “information or intelligence may be collected, ‘to the extent that it is strictly necessary’, related to activities that may, on reasonable grounds, be suspected of constituting threats to the security... (i.e. espionage, sabotage, serious politically motivated violence, clandestine or deceptive foreign influence activities, and covert unlawful acts undermining or leading to the violent overthrow of the established system of government)” (Canada). The same act also prohibits the intelligence services “from investigating or undertaking threat reduction activities against acts of lawful advocacy, protest, or dissent.”

### **3.2.1.5 Special information regarding the basic structure of the armed security sector (RP 2.1.5)**

This request for “special information” made this RP a general catchall for any additional information relating to the security sector that pS chose to provide. Therefore, responses included within this RP do not fall under other RPs in most cases.

Some pS mentioned the existence of **other law enforcement bodies**, including special services, border police, and customs. In one, the *border police* serve to “ensure protection and inviolability of state borders” and is directly subordinate to the President (Azerbaijan), while in another the “border police executes tasks and implements state policy on integrated management of the state border, combating illegal migration and cross-border crime” (Moldova). In another pS, the Prime Minister and the Minister of Interior and Administration directs, supervises, and controls the activity of the Border Guard (Poland). One pS noted that its police forces can be supported by the Border Guard, as well as by the railway police (Switzerland).

Concerning *customs authorities*, one pS explained that its Customs and Excise Department as well as its Unit for Combating Money Laundering have been endowed with law enforcement





authorities (Cyprus), and another noted that the “Customs Service is the law enforcement body of executive authority, which is carrying out a customs policy and a direct management of customs activities” (Moldova).

One pS discussed the Guard of the Republic, a structure that holds special status within the Interior Ministry, and “which has the mission of preserving and protecting the high state authorities and their residences, as defined by law” (Albania). Another pS mentioned an Internal Security Agency that “may also perform tasks ordered by a court or a public prosecutor to the extent defined in the Criminal Code,” but for which “all investigative activities... are subject to judicial supervision” (Poland).

### **3.2.1.6 Special information about civilian control and reforms on paramilitary and/or internal security forces (RP 2.1.6)**

Most pS that responded to this RP in fact emphasized the non-existence of paramilitary and/or internal security forces in their domestic security infrastructure. As noted above, a number of pS also referred to (and thus appear to view) internal security forces and police forces interchangeably, which may affect responses to this RP.

There were 13 pS that reported they **do not** have a paramilitary force (Canada, Cyprus, Denmark, Hungary, Ireland, Italy, Latvia, Netherlands, Norway, Portugal, Slovenia, Switzerland, UK), while 10 do not have internal security forces (Canada, Cyprus, Denmark, Finland, Hungary, Ireland, Norway, Slovakia, Switzerland (at the federal level), UK).

Discussion of the **civilian control** of paramilitary and/or internal security forces was rare. In Finland, it was noted that the Frontier Guard (a paramilitary force) is subordinated to the Ministry of Interior and, through that, linked to parliamentary control. In Greece, “internal security forces are subject to the same civilian control procedures as the Armed Forces. The Government is responsible for the internal security and stability of the country. It appoints the Heads of the internal security forces.” In Lithuania, the Commander of the Lithuanian Riflemen’s Union – a voluntary paramilitary organization – submits annual reports on its activity to the Minister of National Defence and to the Parliamentary National Security and Defence Committee. The report of Tajikistan mentioned that its President, Parliament, Government, and Prosecutor’s Office exercise control over the activities of paramilitary forces and internal security forces.

No pS discussed **reforms** in this context.





### **3.2.1.7 Trends towards the privatization in the security sector/PMSCs (RP 2.1.7)**

Four pS briefly mentioned Private Military and Security Companies (PMSCs) within this RP (Czech Republic, The Netherlands, Slovakia, Switzerland). The Netherlands reported that “civilian security companies are subjected to specific legislation,” while Slovakia noted specifically that “Private Security Services’ operations are legal if they act in accordance with the Act No. 473/2005 on the Provision of Services in the field of Private Security.” Switzerland referred to the voluntary information exchange on PMSCs which it annexed separately, and the Czech Republic included the two questions within FSC.DEL/2/15 under this RP.

## **3.2.2 General observations**

There is some overlap between this question and Q 1.1, especially in RPs dealing with issues such as civilian control and democratic oversight of security forces. Again, the lack of a common understanding of these concepts contributed to a conflation of the various existing structures and processes that ensure democratic political control of these forces.

While this question specifically addresses the “military, paramilitary and internal security forces, intelligence services and the police,” some RPs do not target one type of security force. That is, RP 2.1.1 deals with general procedures for civilian control and oversight, and RP 2.1.2 is concerned with cross-departmental co-ordination and public scrutiny. In relation to these two RPs, there was a divergence in the scope of responses, as some pS attempted to discuss elements of 2.1.1 and 2.1.2 in relation to all their different security forces, some limited this to certain types of forces, and some did not address these two RPs at all. Along a similar vein, RP 2.1.5 requests special information on the “basic structure of the armed security sector.” What constitutes the “armed security sector” is unclear, though, and this RP has therefore been used by pS as a catchall, to address anything they wish to discuss that didn’t fall within the purview of other RPs. Each of the other RPs of 2.1 address one type of security force: 2.1.3, police; 2.1.4, intelligence services; 2.1.6, paramilitary and/or internal security forces; and 2.1.7, PMSCs. In light of this, it is striking that while Q 2.1 explicitly mentions the military, no RP does so. For the purposes of clarity and organization, mention of the military within the context of Q 2.1 has therefore been placed under RP 2.1.1.

Moreover, it is important to note that “special information about civilian control and reforms” is requested for RPs relating to the police and paramilitary and/or internal security forces, while “special information about the basic structure” is asked in regard to the armed security sector. Conversely, a description of “structure, oversight, reform, and privacy protection” is requested of pS in relation to intelligence services, while “trends” is the terminology used in relation to PMSCs. The variance in each RP therefore generates a lack of standardization that complicates efforts to compare different types of security forces. As a result, pS generally discussed different issues in varying levels of detail in relation to each type of security force mentioned within Q 2.1.







In the context of this question, it is also important to emphasize that there is no common understanding of the types of security forces that fall within the scope of “paramilitary and/or internal security forces.” This is evident across reports and lends to general confusion whenever pS are discussing any type of security force outside the military, unless otherwise specified. What’s more, some pS have security forces that do not easily fall into any of the categories provided, further contributing to an overall lack of clarity when describing the roles and responsibilities of different security forces.

### ***3.2.2.1 Constitutionally established procedures for ensuring civilian control and democratic oversight (RP 2.1.1)***

As can be observed, the range of topics and issues covered within this RP were broad and relatively disorganized. Although responses were limited to those addressing the military and/or the armed forces, it was nonetheless challenging to compartmentalize disparate strands of constitutional procedures related to civilian control and oversight into the categories identified above. To this end, the responses to RP 2.1.1, were similar to those for RP 1.1.2, which requests that pS discuss the “institutions and procedures ensuring democratic oversight and public scrutiny” within the context of national planning and decision-making processes. Despite this overlap, responses to this section still formed the bulk of the responses to Q 2.1. As noted in relation to Q 1.1 above, there is no shared definition of the scope of “democratic oversight,” but in general, “civilian control” appears to be understood as parliamentary control. It remains striking that few pS specifically discussed whether their armed forces have incorporated civilian leadership into the command structure, or if they have been placed under the purview of civilian authorities as a part of “civilian control” aside from the role of parliament. Instead, pS preferred to frame the issue of control solely in the context of “democratic control.”

In addition, it is notable that only several pS discussed the role of the judiciary and/or specialized courts in relation to democratic oversight. Even though some pS mentioned the courts within the context of the separation of powers, this was limited, and responses mostly focused on the executive and the legislative branches of government.

### ***3.2.2.2 Cross-departmental co-ordination and public scrutiny beyond the State (RP 2.1.2)***

Much like the previous RP, there is some overlap between 2.1.2 and 1.1.2, as the latter examines “institutions and procedures ensuring democratic oversight and public scrutiny.” In general, pS did not discuss mechanisms that allow the general public to participate in and/or exercise scrutiny outside of the constitutional framework. To this end, it is unclear what the scope of “public scrutiny” entails, particularly as the RP specifies “beyond the State.” For example, it is unclear whether government-appointed ombuds institutions represent “public scrutiny beyond the State” or





whether the RP refers to public institutions such as civil society, thinktanks, or an independent media.

It is also evident that no common understanding exists for what “cross-departmental co-ordination” encompasses. Moreover, it is unclear whether responses were meant to discuss co-ordination between departments within the security forces themselves, or between different government departments tasked with oversight of those security forces. Thus, it remains uncertain what type of responses concerning “co-ordination” this RP intended to elicit.

### **3.2.2.3 Special information about civilian control and reforms in the police (RP 2.1.3)**

A significant number of pS discussed aspects of their police forces in their responses. Some provided information on the different types of police forces they have, as well as explaining which forces operate on the federal, municipal, and local levels, should various forces exist within the domestic security framework. In general, pS did not elaborate on the scope of powers endowed to police forces (which may fall under the purview of RP 2.3 below). Much discussion instead centred around the structure of police forces, and not the constitutional procedures for ensuring democratic political control. Similar to RP 2.1.1 above, discussion of “control” of the police forces did not, for the most part, specify “civilian control”. Instead, pS largely opted to frame the issue of control within the vocabulary of “democratic control,” and thereby discussing the role of parliament. The choice of language and manner in which pS framed “control” therefore contributes to a state-centred discussion, with some describing state institutions to which the police are accountable – which may fall under all three branches of government – but offering limited feedback about “civilian control.” Moreover, some pS also mentioned “supervision” of the police, though it is unclear how this differs from “control” of the police.

Despite an explicit request for “special information about civilian control and reforms,” few pS mentioned whether there were recent and/or ongoing reform processes relating to the police underway. While a handful of pS discussed the existence of complaints systems and/or ombuds institutions, these references were limited, suggesting that such structures are uncommon in pS.

### **3.2.2.4 Structure, oversight, reform, and privacy protection in relation to civilian/domestic intelligence services (RP 2.1.4)**

The responses from pS relating to the intelligence services remain, in comparison to discussion of other security forces, strongly shrouded in ambiguity. As to the scope of this RP, it is interesting that the question asked for a description of “structure, oversight, reform, and privacy protection,” and thus lists more categories than previous RPs that examined the military and police forces. Despite the relatively high number of responses addressing the intelligence services, most pS did so in passing, and only discussed the structure, but not oversight or reform, of these services.





Notably, this discussion of the structure of intelligence services (i.e. under which ministry intelligence falls, to whom it is accountable, the multiple agencies that inter-operate within the same framework, etc.), revealed that no two pS had the same control, oversight, and/or accountability mechanisms. Many pS referred to the constitutional provision or legislative act that governs the actions of their intelligence services, alongside various sub-intelligence agencies within the national framework; however, few distinguished between civilian/military and internal/external intelligence services.

It is important to highlight that Q 2.3 addresses the role and missions of the military, paramilitary, and security forces, and is therefore where many pS discussed the mandates and powers of such forces; intelligence services, however, were not mentioned. Consequently, almost no pS reported on the role and missions (or mandates and powers) of their intelligence services.

Given the particularly limited discussion of privacy protection (only one pS responded to Q 2.2), it is clear that pS sought to avoid addressing this issue. This is a significant omission, as this RP explicitly asks pS to elaborate on such protections.

#### **3.2.2.5 Special information regarding the basic structure of the armed security sector (RP 2.1.5)**

Responses to this RP comprised any already uncategorized discussion of the “armed security sector”. It is unclear what responses were meant to be drawn out, as the prompt for “special information” inferred that this information was not included in previous responses, i.e. on the “basic structure” of the armed security sector. As the basic structures of these sectors have generally been addressed in earlier RPs (military, police, intelligence services), it seems that only those forces not specifically mentioned in those RPs fall within the purview of this RP (such as border guard, customs, etc.). In addition, it is obvious that different definitions of “security forces” or the “armed security sector” create further confusion as to the scope of this RP.

#### **3.2.2.6 Special information about civilian control and reforms on paramilitary and/or internal security force (RP 2.1.6)**

In most cases, pS stated only in passing whether paramilitary and/or internal security forces exist within their domestic security infrastructures. Most pS do not have such forces; those that did mention these forces usually did not provide detailed information on their civilian control and/or reform.





### 3.2.2.7 Trends towards the privatization in the security sector/PMSCs (RP 2.1.7)

Subsequent to FSC.DEL/2/15, pS are encouraged to submit voluntary information on PMSCs. In 2018, 8 pS submitted this information (Austria, Belgium, Germany, North Macedonia, Slovenia, Spain, Switzerland, UK). Please refer to a separate study, *Supporting Enhanced Dialogue on Private Military and Security Companies (PMSCs): Analysis of Information Provided to the Annual OSCE Information Exchange*,<sup>64</sup> for more information.

### 3.2.3 In Focus: Serbia

As can be observed in Table 2 below, Serbia progressively dedicated more words to discussing Q 2.1 throughout the years under examination. While Serbia's responses have been paraphrased and summarized for ease of consideration within the context of this report, it is important to note that this section was expanded upon drastically as follows: 2010 (635 words); 2014 (2873 words); and 2018 (4942 words). Serbia's response (particularly in 2018) is on the more detailed end of the spectrum of responses received for Q 2.1.

In 2010, Serbia's full response to Q 2.1 served as the general introduction for the 2014 and 2018 reports. This general introduction remained largely the same throughout the years. Notable additions include a more detailed discussion (by 2014) of procedures for democratic oversight of the Serbian Armed Forces (SAF) and the security services, as well as the inclusion (by 2018) of more details concerning the police and a new section on the complaints procedure. As the text concerning the SAF and security services remained largely the same between 2014 and 2018, the reason for the longer response in 2018 can be solely attributed to the additional sections on the police and complaints procedure.

Serbia did not directly address all the RPs as outlined in the Questionnaire. Instead, it opted to include its own headings and sub-headings on the control and oversight of the SAF and security forces, and later, of the police as well as the complaints procedure. To this end, Serbia does broadly address the overarching question (i.e. *What is the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?*), with the exception of paramilitary and internal security forces as Serbia has prohibited "secret or paramilitary forces."

<sup>64</sup> DCAF, *Supporting Enhanced Dialogue on Private Military and Security Companies (PMSCs): Analysis of Information Provided to the Annual OSCE Information Exchange* (2018). Available from <https://www.osce.org/forum-for-security-cooperation/384552>.





**Table 2: Serbia's responses to Question 2.1 in 2010, 2014, and 2018 (summarized text)**

2010 (635 words)	2014 (2873 words)	2018 (4942 words)
<p>The civil (democratic) control of the security services comprises parliamentary supervision and control through parliamentary committees and adoption of laws, control by the ombudsman, inspector general, commissioner for access to information of public importance, as well as by civil society institutions (media, citizens' associations and expert groups). The <b>National Assembly</b> oversees the operation of the security services. The <b>President</b> of the Republic commands the SAF. The <b>Government</b> guides and co-ordinates the work of governmental bodies, which includes the work of the <b>MoD</b>. The <b>Ombudsman</b> is an independent governmental body authorized to protect the rights of the citizens and to control the work of other governmental bodies. The <b>National Security Council (NSC)</b> is tasked with taking care of the national security, and also guides and co-ordinates the operation of the security services, considers the mutual co-operation among the bodies responsible for defence, the bodies in charge of interior affairs, and the security services, and their co-operation with other competent governmental bodies as well as their co-operation with the security agencies and services of foreign countries and of international organizations. The <b>Coordination Bureau</b> operationally co-ordinates the work of the security services and acts according to the conclusions of the <b>NSC</b>. Secret and paramilitary associations are forbidden.</p>		
<p>One can file a complaint with the Constitutional Court against individual acts <b>and activities</b> of governmental bodies or organizations entrusted with public authorizations by which the human or minority rights and freedoms guaranteed by the Constitution <b>are either</b> violated or denied if other legal instruments for their protection have <b>been exhausted</b> or have not been provided for.</p>	<p>An appeal may be filed to the Constitutional Court of the Republic of Serbia against specific acts or activities of state bodies or organizations vested with public authority, which violate or deny human or minority rights and freedoms guaranteed by the Constitution if all other legal resources are exhausted or are not envisaged for their protection.</p>	
/	<p><b>Democratic oversight of SAF:</b> procedures for the control of the employment and development of the Serbian Armed Forces, the internal and external control of expenditures for the military purposes, monitoring the situation and informing the public on the state of preparations of the Serbian Armed Forces, enabling free access to information of public significance and determining responsibility for the execution of military duties conducted by the National Assembly, Ombudsman, and other state bodies in compliance with their responsibilities, and citizens and the public.</p>	
/	<p><b>Procedures for democratic and civilian oversight of SAF:</b></p> <p><i>Parliamentary control:</i> by the National Assembly through the Security Committee.</p> <p><i>Direct control:</i> by the President of the Republic and the MoD over the SAF Chief of General Staff.</p> <p><i>Public control:</i> by the website of the MoD, which has published the Register of regulations (updated monthly), and the Bulletin on the work of the MoD.</p>	
<p>The National Assembly is responsible for overseeing the operation of the security services via a competent committee through the prescribed obligation of reporting to the Committee on the part of the Directors of the security services and through immediate oversight: access to the premises of a service, access to files, etc. This control is conducted on several levels. Control and oversight, in accordance with the authority-sharing principle, are performed by the legislative, the executive, and the judicial authorities, by the President as well as by specialized parliamentary and governmental bodies for the protection of human and minority rights.</p>	<p><b>Procedures of democratic and civilian control of the security services:</b></p> <p><i>Parliamentary control:</i> The Director of the Security Services shall, at the request of the Committee, grant the members of the Committee access to the premises of the service, allow access to documentation, provide data and information on the work of the service, and answer to their questions related to its work.</p> <p><i>Public control of the military security services:</i> The security services are obligated to inform the public about their work through the bodies to which they submit their reports, in a way that does not infringe the rights of citizens, national security, and other interests of the Republic of Serbia, and may directly inform the public about certain security occurrences and events.</p> <p><i>Regular reporting to the competent authorities about the work of the military security services:</i> Accurate, true, and complete information must be provided on data collected on persons and data of public significance in compliance with the regulations governing data protection on persons and free access to information of public significance.</p>	
/	<p><b>Democratic and civilian control of military security services:</b></p> <p><i>National Assembly:</i> supervises the work of the Military Security Agency and Military Intelligence Agency.</p> <p><i>Government:</i> via the MoD, exercises control and provides necessary resources for the work of the Military Security Agency (MSA) and Military Intelligence Agency (MIA); and via the MoD and Inspector General, exercises other powers in accordance with the law.</p> <p><i>Inspector General:</i> 1) oversees implementation of the principles of political, ideological, and interest neutrality in the activities of the MSA &amp; MIA, 2) oversees the legality of implementation of special procedures and measures for covert data collection, 3) oversees the legality of budget and other resource spending for their activities, 4) offers opinions on draft laws, other regulations, and general acts within the competences of the MSA &amp; MIA, 5) establishes the facts regarding observed illegal or irregular actions in the activities of the MSA &amp; MIA, and 6) reports to the MoD on oversight findings, including further measures.</p> <p><i>Internal Control:</i> a manager shall inspect the legality of their work and the implementation of powers and authorities of their personnel.</p>	





**Democratic oversight of the Serbian Police:** (1) The National Assembly is responsible for carrying out external control of the police. Police operations are also externally controlled by the Government, relevant judicial authorities, state authorities responsible for certain oversight activities, and other relevant authorities and bodies as designated by law. Internal police operations are overseen by the Internal Police Control Sector. (2) Another type of control is exercised by citizens, because everyone is entitled to file charges with the Ministry against a police officer if he/she considers their rights or freedoms have been violated as a result of unlawful or improper conduct by a police officer. (3) A third type of control is carried out by the Ombudsman and Commissioner for information of public importance and protection of personal data.

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**Police:** shall be the central organizational unit of the Ministry, which in the performance of interior, i.e. police duties, protects and improves the safety of citizens and property, abiding by constitutionally guaranteed human and minority rights and freedoms and other protected values in a democratic society, with a possibility of using the means of coercion set out in the Constitution and law. The work of the Ministry shall be under democratic oversight. The work of the Ministry shall be overseen through external control and internal control.

*Parliamentary oversight:* The National Assembly shall oversee the work of the Ministry directly and through the competent internal affairs committee.

*Oversight role of the assemblies of provincial autonomy or local self-government units, including town municipalities:* These bodies examine reports on the security situation in their territories, assume positions on priorities for the safety of people and property, and submit proposals to the manager of the competent organizational unit of the Ministry.

*Oversight of work of the Police and employees of the Ministry of the Interior:* The Sector of Internal Control shall regularly and periodically submit reports on the work of the Sector of Internal Control to the Minister, and on actions taken to detect criminal offences to the competent public prosecutor.

*Forms and manner of performing internal control:* External control shall be performed by the National Assembly; assemblies of the provincial autonomy units or local self-government units, including town municipalities; judicial authorities; independent state authorities in charge of oversight and other authorized state authorities and bodies; citizens and the public.

*Oversight by handling complaints:* complaints may be submitted by any person who believes that his/her human and minority rights and freedoms were violated by an act or a failure to act of an employee during the performance of official tasks.

*Complaints procedure:* shall be conducted by the manager of the organizational unit where the respondent works, or a person authorized by the manager or the Complaints Committee.

*Complaints Committee:* shall consist of three members: a chairperson, one member from the Ministry, and one representative of the general public.

*Supervision of settling of complaints in complaint procedure:* the complaints procedure conducted by the manager of the organizational unit shall be supervised by the competent complaints unit and the Police Directorate. The complaints procedure conducted by the Committee shall be supervised by an expert authorized by the Minister for that purpose.

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### 3.3 **Question 2.2: How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?**

**Reference point:**

1. *Further procedures, institutions and best practices at the executive and legislative levels (beyond 2.1)*

Source: 2010 Reference Guide (FSC.DEL/142/10, 2 November 2010)

There is significant overlap between Qs 2.1 and 2.2. A noticeable number of pS did not provide a substantive answer to 2.2, and instead referred to information provided in either Q 1.1 (Estonia, San Marino), Q 2.1 (Denmark, Estonia, Italy, Latvia, Liechtenstein, Moldova, North Macedonia, Norway, Spain, Sweden, UK), Q 2.3 (Portugal), or merged their responses to Qs 2.1 and 2.2. (Armenia, Tajikistan). Some pS reiterated that there were no paramilitary forces (Germany, Ireland, Romania, Slovakia) or internal security forces (Ireland, Malta, Romania, Slovakia) within their domestic security infrastructures.

#### 3.3.1 Overview of responses

##### 3.3.1.1 *Further procedures, institutions and best practices at the executive and legislative levels (beyond 2.1) (RP 2.2.1)*

A number of pS referred directly to the relevant **constitutional article** or legislative act that provides for democratic control over the security forces, and/or outlined the relevant respective roles of the president, government, parliament, etc. (Albania, Azerbaijan, Ireland, Italy, Malta, Serbia). One pS noted that “procedures for exercising democratic political control over the military and security forces defined by the Constitution only in general terms are elaborated in a wide range of acts” (Serbia). Another discussed new provisions that were adopted in relation to defence issues, including for example the creation of the new position of Permanent Secretary of Defence, who is the highest-ranking civil servant in the MoD and “assists the Minister of Defence in the formulation and execution of defence policy and management of human, material, and financial resources” as well as in the “drawing up and actualization of the normative basis which regulates the structure and functioning of the MoD, defence planning, programming and budgeting, control of the execution of the budget, planning and control of projects for supplies and services necessary for the build-up of the planned defence capabilities, international military cooperation, qualification and career development of the civil servants, interaction with NGO’s and syndicates” (Bulgaria).





Some pS elaborated on **control of the armed forces** in broader terms, with one observing that “the principles of legality, the democratic organization of the state and society, the right of citizens to receive and disseminate reliable information are at the heart of the system of democratic control over military activities... The current and constantly improving system of democratic control over military activities... is aimed at creating a strong and effective legislative base of military policy, protecting the army and security forces from involvement with the activities of various political forces, movements and parties, ensuring effective social protection of military personnel freedoms, raising the social status of military service”<sup>65</sup> (Belarus). Another described this framework in more concrete terms, with control “exerted using different tools, including approval of defense budget by the Parliament, realization of procurements according to legislation, the control over situation with respect for human rights in the Armed Forces by Ombudsman, Members of Parliament, civil communities, institutions and independent media” (Azerbaijan). Similarly, another pS listed the institutions vested with power to control the activities of security forces, including the Security Council, Government, Parliament, General Prosecutor’s Office, and public organizations (Kazakhstan). Conversely, others discussed control in broad terms, with one pS mentioning five distinct processes for both internal and external administrative control (Iceland), and another distinguishing between administrative, parliamentary (representative), judicial, and public (civil) control (Belarus).

Most pS discussed **executive** and/or **administrative control** of the **armed forces**, though some discussed control of the “security forces,” which adds to a lack of overall coherence regarding this RP. A number of pS outlined the different institutions and/or individuals that control and/or supervise these bodies. One noted that the armed forces are under political control, both during peace and wartime, with the President, House of Representatives, Council of Ministers, and the Minister of Defence exercising democratic control (Cyprus). Another pS reported that “political control of the armed forces is exercised by three state institutions: the National Assembly, the President and the Government” (Slovenia), and yet another stated that “general leadership in this area is exercised by the President... the implementation of procedures is ensured by the Council of Ministers and its members – the Ministers, who control individual departments” (Poland). One pS listed in detail the responsibilities of, and control over, the armed forces by the Parliament, President, Council of Ministers, Minister of Defence, and Chief of Defence (Bulgaria).

Referencing relevant legislation, one pS addressed the relationship between the armed forces and the police that allows requests to be made of the armed forces to aid civil powers. In such cases, “the Chief of the Defence Staff shall, upon written requisition from the Attorney General of a province and subject to directions from the Minister, deploy the... Armed Forces as he or she

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<sup>65</sup> Original text: “в основе системы демократического контроля над военной деятельностью... лежат принципы законности, демократической организации государства и общества, права граждан на получение и распространение достоверной информации. Действующая и постоянно совершенствуемая система демократического контроля над военной деятельностью... нацелена на создание прочной и действенной законодательной базы военной политики, ограждение армии и силовых структур от вовлечения их в деятельность различных политических сил, движений и партий, обеспечение эффективной социальной защиты военнослужащих, их прав и свобод, повышение общественного статуса военной службы.”





considers necessary for the purpose of suppressing or preventing any riot or disturbance that is occurring or is considered likely to occur” (Canada).

While one pS discussed the legal framework, organization, and functions of the **police** within its domestic security infrastructure (Malta), another pS elaborated upon “coordination of policy,” “coordination of management,” and “coordination of implementation” of the police (Belgium).<sup>66</sup> Both of these pS went into great detail in describing their domestic infrastructures related to the police, though there was little overlap between them. One other pS elaborated on “coordinating instructions,” whereby “operational coordination and execution of the conclusions of the Council, are performed by the Coordination Bureau,” which “establishes the tasks that are executed by operational harmonisation of activities of security services and between the security services and other state bodies and in this regard co-ordinates their activities, establishes the mode of operational harmonisation in certain cases, establishes mixed working groups for operational tasks performed through operational harmonisation of the activities and determines their tasks, analyses the results of operational harmonisations and reports about that to the Council, as appropriate, and at least every six months” (Serbia).

A number of pS discussed the **internal control of police forces** under this RP. Depending on the pS, police forces may be under the authority of the Ministry of the Interior (Andorra, France), the Ministries of the Interior *and* Justice (Belgium), the Minister of Public Safety (Canada), or the Ministry of Justice and Public Order (Cyprus). Yet, within this context, the powers of each ministry differ. In one pS, “the powers of the Ministry of the Interior concern the daily life of citizens: public security, civil security, civil liberties, elections, local authorities. These missions are performed by the central services established in Paris and by the prefectures, the sub-prefectures, the national police, the civil security and by the national gendarmerie, an armed force placed for employment with the Minister of the Interior for his missions of internal security” (France).<sup>67</sup> The internal supervision of police officers was elaborated by one pS, which described this as “more or less on the traditional ‘military’ style hierarchy... [which is] based upon effective supervision and guidance in carrying out of assigned tasks of subordinates” (Malta). Another pS noted that “Internal Control as an organisational unit within the Military Security Agency (MSA) and the Military Intelligence Agency (MIA) shall carry out inspection of the legality of their work and the implementation of powers and authorities of their personnel, and when they have findings that the MSA or the MIA Director did not rectify the identified illegality or irregularity they may turn to Inspector General or the relevant Committee of the National Assembly, as appropriate” (Serbia).

Some pS also described “the General Inspectorate of Police Services,” the primary mission of which is “to inspect the operation of the Federal Police and the local police,” especially regarding “the application of laws, regulations, orders, instructions and directives, as well as norms and

<sup>66</sup> Original text: “la coordination politique,” “la coordination de la gestion,” and “la coordination de l’exécution”.

<sup>67</sup> Original text: “les compétences du ministère de l’intérieur concernant la vie quotidienne des citoyens: sécurité publique, sécurité civile, libertés publiques, élections, collectivités locales. Ces missions sont remplies par les services centraux implantés à Paris et par les préfetures, les sous-préfetures, la police nationale, la sécurité civile et par la gendarmerie nationale, force armée placée pour emploi auprès du ministre de l’intérieur pour ses missions de sécurité intérieure.”





standards. It regularly reviews the effectiveness and efficiency of the federal police and local police forces, without prejudice to the internal procedures of these services” (Belgium),<sup>68</sup> and may further be responsible for “the control of the directorates and services of the... police; studies, audits and administrative inquiries,” along with being asked “to analyse, propose and evaluate professional rules and practices related to ethics” (France).<sup>69</sup> In one pS, “the Public Defender of Rights is responsible for ensuring the respect of ethics by persons carrying out security activities” within the State, acting “as an independent constitutional authority. It is neither a court nor a disciplinary board, but a court of appeal and control” (France).<sup>70</sup> One pS explicitly noted that the Government appoints an Inspector General for the purposes of external control (Serbia).

In this vein, a few pS described **external control of the police forces**. In one, there is an External Review Committee (ERC), which is “an independent and impartial federal tribunal that helps to ensure fair and equitable labour relations within the Royal Canadian Mounted Police (RCMP) by providing findings and recommendations to the Commissioner of the RCMP. The ERC’s jurisdiction is restricted to labour matters that relate to regular members and civilian members of the RCMP, who are non-unionized. The ERC has two program activities: to conduct independent, timely, fair, and impartial case reviews of disciplinary appeals, discharge and demotion appeals, and certain categories of grievances; and to provide outreach and information to support accountability and transparency” (Canada). Similarly, another pS has two external control committees: “The Standing Committee for the Control of Intelligence and Security Services,” known as “Committee R,” specifically addresses “the protection of the rights of the Constitution and the law conferring rights to individuals, as well as the co-ordination and effectiveness of police services on the one hand, and intelligence and security services on the other. Committee R may act either on its own initiative or at the request of the House of Representatives, the Senate, the competent Minister or the competent authority.” Similarly, “Standing Committee on the Control of Police Services” or “Committee P,” which is “dependent on the Legislature (Parliament), has two main objectives: one to guarantee the protection of the rights conferred on individuals by the Constitution and the law, the other to ensure the co-ordination and effectiveness of the police services,” and “without substituting or obstructing the judicial and disciplinary authorities in ensuring adequate punishment for individual facts, the intrinsic mission of the oversight body is primarily to verify whether policy makers need to perfect, in one way or another, the operation of the police and

<sup>68</sup> Original text: “l’inspection générale des services de police,” the primary mission of which is “inspecter le fonctionnement de la police fédérale et de la police locale,” especially regarding “l’application des lois, règlements, ordres, instructions et directives, ainsi que des normes et standards. Elle examine régulièrement l’efficacité et l’efficience de la police fédérale et des corps de police locale, sans préjudice des procédures internes à ces services”

<sup>69</sup> Original text: “du contrôle des directions et services de la DGPN et de la préfecture de police; des études, audits et enquêtes administratives; d’analyser, proposer et évaluer les règles et pratiques professionnelles relatives à la déontologie.”

<sup>70</sup> Original text: “le Défenseur des droits est chargé de veiller au respect de la déontologie par les personnes exerçant des activités de sécurité sur le territoire de la République. Il intervient en qualité d’autorité constitutionnelle indépendante. Ce n’est ni un tribunal, ni un conseil de discipline, mais une instance de recours et de contrôle.”





intelligence services under their jurisdiction, or if changes to the law applicable to the services in question are to be made” (Belgium).<sup>71</sup>

Some pS also discussed **control of the intelligence services**. One reported that legal control of its Defence Intelligence and Security Agency (DISA) is exercised through “parliamentary oversight, administrative/financial/legal control in accordance with the Constitution,” listing the specific roles of the Parliament, Prime Minister, Minister of Defence, and the General Director of DISA (Albania). Likewise, another pS stated that their intelligence service is “one of the most reviewed and accountable security agencies in the world,” and subsequently outlined “a system of control and review mechanisms and processes,” explaining the role of the Minister of Public Safety and the Deputy Minister, the Director of the security intelligence service, the Security Intelligence Review Committee, the Federal Court, as well as of public reporting, parliamentary appearances, and other external review processes. In addition, this pS reported having a “rigorous internal evaluation and audit function aimed at constant improvement of its operations and policies” (Canada). In another pS, all intelligence services at the federal level are subject to parliamentary control; and to this end, a “Parliamentary Control Body is established, which regularly meets as a result of the Control Body Act and is fully informed about the activities of the intelligence services and events of particular importance” (Germany).<sup>72</sup> One pS that did not discuss the role of the intelligence services in Q 2.1 instead noted under Q 2.2 that its Security Service “has been, by law, designated to be the protection of national security, in particular against threats from organised crime, espionage, terrorism and sabotage, the activities of agents of foreign powers and against actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means,” and that the “head of the Security Service is appointed by the Prime Minister and is responsible for the efficiency of the Service and for securing that no information is obtained by the service except so far as necessary for the proper discharge of its functions and that no information is disclosed by it except so far as necessary for that purpose or for the purpose of any criminal proceedings.” In this pS, a Security Committee further “examines the expenditure, administration and policy of the Service” (Malta). In another pS, the General Intelligence and Security Service falls under the purview of the Minister of Internal and Kingdom Relations, and its findings are reported

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<sup>71</sup> Original text: “Le Comité permanent de contrôle des services de renseignements et de sécurité,” known as “Comité R,” specifically addresses “la protection des droits de la Constitution et la loi confèrent aux personnes, ainsi que sur la coordination et l’efficacité, d’une part, des services de police et, d’autre part, des services de renseignements et de sécurité. Le Comité R peut agir soit d’initiative, soit à la demande de la Chambre des représentants, du Sénat, du Ministre compétent ou de l’autorité compétente.” Similarly, “Comité permanent de contrôle des services de police” or “Comité P,” which is “dépendant du pouvoir législatif (Parlement), poursuit deux objectifs principaux : l’un de garantir la protection des droits que la Constitution et la loi confèrent aux personnes, l’autre de s’assurer de la coordination et de l’efficacité des services de police,” and “sans se substituer ni faire obstacle aux autorités judiciaires et disciplinaires s’assurant de la sanction adéquate pour des faits individuels, la mission intrinsèque de l’organe de contrôle est principalement de vérifier si les responsables politiques doivent parfaire, d’une façon ou d’une autre, le fonctionnement des services de police et de renseignements qui relèvent de leurs compétences, ou si des modifications à la législation applicable aux services en question doivent être apportées.”

<sup>72</sup> Original text: “das Parlamentarische Kontrollgremium eingerichtet [wird], welches infolge des Kontrollgremiumgesetzes regelmäßig zusammentritt und umfassend über die Tätigkeit der Nachrichtendienste und Vorgänge von besonderer Bedeutung unterrichtet wird.”





confidentially to a Parliamentary Commission that consists of leaders of the political parties represented in Parliament (The Netherlands). Conversely, the Centro Nacional de Inteligencia (CNI) “is attached to the Ministry of the Presidency,” though it is “a special public body, endowed with the necessary functional autonomy and with a specific budgetary, hiring and personnel regime” (Spain).<sup>73</sup>

A number of pS discussed political oversight of, or **representative control** over, security forces. Some further elaborated on the role of parliament within this context. In general, the “supreme legislative authority [that] deals with the defence issues mainly in the course of legislative work and in the course of determining the main activities of the state” is parliament, and it thus “exerts the main civilian control over the military” (Poland). For the purposes of this RP, it is worth emphasizing that responses, particularly within the context of responses about political oversight and/or representative control of security forces, were inconsistent across pS with regard to whether they referred to control over the armed forces, internal security forces, police forces, intelligence services, or any other type of security forces. The response of one pS was quite broad, noting that its Constitution and respective laws provide parliament with a “wide range of mechanisms for effective control over the executive institutions” to control government policy (Georgia). Another observed that “political control is exercised through the parliamentary mechanism for approving the state budget, including the defence budget” (Czech Republic). Alternatively, one pS noted that “democratic control is implemented through a clear chain of command and control” in which the President and Minister of Defence are “crucial state institutions”; while parliamentary control is performed by way of “defining necessary laws and the process of creating the budget, and supervision over its implementation and execution.” Furthermore, in this pS, the “Parliamentary Assembly has the executive authority to adopt laws relevant to the organization, funding, appointment, training, mobilization, equipping, and use of” the armed forces (BiH). In this context, there is no clear distinction between political and democratic control.

Some pS discussed only democratic control of the *armed forces*, with one highlighting that “the authorities elected in democratic elections control Armed Forces” (Slovakia). Another observed that “in contrast to other parliamentary control of the government, the armed forces are particularly subject to the constitutional control mechanisms,” and that “the numerical strength and the basic features of the organization of the armed forces must result from the budget, which is established by law” in parliament (Germany).<sup>74</sup> Other pS highlighted that parliament “shall decide on war and peace and exercise civilian oversight over the armed forces” (Croatia), or “execute parliamentary control over executive authority bodies which function in the field of defence” (Bulgaria). Another

<sup>73</sup> Original text: “se encuentra adscrito al Ministerio de la Presidencia,” though it is “configura como organismo público especial, dotado de la necesaria autonomía funcional y con un régimen específico presupuestario, de contratación y de personal.”

<sup>74</sup> Original text: “die Streitkräfte unterliegen im Vergleich zur sonstigen parlamentarischen Kontrolle der Regierung in besonderer Weise den verfassungsrechtlichen Kontrollmechanismen,” and “die zahlenmäßige Stärke und die Grundzüge der Organisation der Streitkräfte aus dem Haushaltsplan ergeben müssen, der durch Gesetz vom.”







pS has a parliamentary National Defence and Armed Forces Commission, which carries out control “by means of hearings of ministers, their officials, general officers, industrialists, members of [domestic] or foreign civil society, examination of amendments and the production of reports. This is where the multiannual military programming law is examined as well as the annual budget devoted to national defence and the functioning of the armed forces” (France).<sup>75</sup>

The democratic control of both the armed forces *and* the police was discussed by some pS, which noted for example that this control is “ensured by their subordination in all respects to the democratically elected political authorities at both cantonal and/or federal level,” so that these forces are “effectively controlled” by a variety of democratically elected constitutional bodies. Within this context, this pS also noted that “because police authority is exercised by the cantons, democratic control over the police forces is exercised by the Cantonal Assemblies (legislative power) and Governing Councils (executive authority). The specific procedures and responsible authorities/institutions for ensuring democratic political control over the police are established by cantonal law” (Switzerland).<sup>76</sup>

There were also pS that mentioned only democratic control of the *police forces*, which are “answerable to the Government of the day, [and] the House of Representatives effects further external supervision through Parliamentary Questions and by allocating discussion in connection to the allocation of funds in the Force” (Malta). One pS noted that “Parliament is entitled to information and detailed accounts on every action taken by the Government on defence issues, and exercises parliamentary control (exercise of ‘the right to know’), through the Parliamentary Committee on Defence and Foreign Policy Issues” (Greece).

A number of pS provided a general description of this control, with one explaining that the National Assembly “oversees, either directly or via its Supervisory Committee, the work of the security services in terms of: constitutionality and legality, compliance with the highest-level political documents defining the intelligence and security policy of the country as well as the political, ideological and interest neutrality in the work of these services, and the spending of the budget and other working resources of the security services” (Serbia), and another noting that “democratic control over the security forces is exercised by the Parliament..., through its mechanisms for approving the state budget [*sic*] and performing oversight function” (Albania).

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<sup>75</sup> Original text: “au moyen d’auditions de ministres, de leurs fonctionnaires, des officiers généraux, des industriels, de membres de la société civile française ou étrangère, d’examen des amendements et de production de rapports. C’est en son sein que la loi de programmation militaire pluriannuelle est examinée ainsi que le budget annuel consacré à la défense nationale et au fonctionnement des forces armées.”

<sup>76</sup> This includes, for example, the Federal Assembly (Parliament); the respective Cantonal Assembly; the Federal Council (Government, accountable to the Federal Assembly); the respective Cantonal Governing Council; the Foreign Policy Committees of both national chambers; the Security Policy Committees of both national chambers; the Finance Committees of both national chambers; the Finance Committee of the respective Cantonal Assembly; the Defence Minister who is at the same time Federal Councillor and Head of the DDPS (elected by the Federal Assembly) with regard to the control over the Armed Forces and the FIS; the Minister of Justice and Police who is at the same time Federal Councillor and Head of the Federal Department of Justice and Police (FDJP) with regard to the control of the Federal Office of Police (fedpol) and the Federal Security Service.





While these pS referred to “security services,” another pS referred to a variety of specific forces in their response, reporting that “control over the activities of the armed forces, paramilitary forces, internal security forces, intelligence services and law enforcement agencies” of the State is exercised by the President, the Federal Assembly, the Government, the Accounting Chamber, and prosecution authorities, and noting that “Members of the Council of Federation and deputies of the State Duma of the Federal Assembly... in connection with the exercise of their deputy activities are entitled to receive information about the activities of the above forces and bodies” as stipulated by federal law (Russia).<sup>77</sup>

Many pS also cited specific **parliamentary committees** that deal with control and oversight of the security forces. BiH, for example, noted that its Joint Committee for Defence and Security Policy manages parliamentary supervision over the following institutions: the MoD, the Ministry of Security, the Border Police (BP), state intelligence agency SIPA, the National Office of Interpol, and the Mine Action Centre (BHMAL). Furthermore, the Joint Committee also considers and monitors implementation of the Security and Defence Policy of BiH; supervises and considers reports of the BiH MoD, the BiH Ministry of Security, and other executive bodies dealing with security and defence matters and reporting on the subject to the Parliamentary Assembly of BiH. Similarly, in Montenegro, the Security and Defence Committee conducts parliamentary oversight of the work of the MoD, the Army of Montenegro, the National Security Agency, the Ministry of Interior, the Police Administration, and other organs and institutions engaged in security and defence affairs. In its response, Montenegro elaborated a lengthy list of responsibilities with which the Security and Defence Committee is tasked. Romania also noted that “the Parliamentary Commissions for defence, public order and safety and those for the control of the activity of the Romanian Intelligence Service and of the Foreign Intelligence Service examine the projects of law in the field of defence and national security and have the right to control the activity of these institutions,” while Serbia reported that the National Assembly oversees, “either directly or via its Supervisory Committee, the work of the security services in terms of: constitutionality and legality, compliance with the highest-level political documents defining the intelligence and security policy of the country as well as the political, ideological and interest neutrality in the work of these services, and the spending of the budget and other working resources of the security services.” In Switzerland, each chamber of Parliament has a Security Policy Committee, which “propose decisions to their respective houses on all matters relating to military defence, civil protection, national economic supply, peace and security policy, alternative civilian service and the export of military equipment, and supervise administrative activities for their respective chambers.”

A few pS mentioned **oversight of the defence sector by other bodies**, including for instance “the Chamber of Accounts, which is tasked to evaluate the activities and public expenditures of the Government agencies, including the Ministry of Defense and the military units and to report to the

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<sup>77</sup> Original text: “контроль за деятельностью вооруженных сил, военизированных сил, сил внутренней безопасности, разведывательных служб и правоохранительных органов”... and noting that “Члены Совета Федерации и депутаты Государственной Думы Федерального Собрания... в связи с осуществлением ими депутатской деятельности вправе получать сведения о деятельности вышеуказанных сил и органов в порядке.”





Parliament its findings” (Azerbaijan). One pS mentioned the Commissioner for Information of Public Importance, established by law as an autonomous state body that independently exercises his/her authority over the right of access to public information held by public authorities (Serbia).

The issue of **transparency** was also discussed by several pS. One explained that “in pursuit of making transparent its security and defense policy [it] publicly declared its security and defense posture through disclosing the threat assessment, national interests in foreign, security and defense policy” (Azerbaijan). Another pS stated that “the work of the Ministry shall be transparent,” and that the Ministry “shall regularly, promptly and fully inform the public of its work, except when taking measures and activities in accordance with the law regulating criminal procedure and when it would hinder operational police work, or if it would: violate the data secrecy regulation; violate the dignity of citizens; jeopardise the right to personal freedom and security” (Serbia).

Some pS discussed **legal control** of the security forces. Again, there was a disparity in responses as far as whether this control covers the armed forces, the police forces, and/or other security forces. One pS observed that, in general, “all actions and decisions of the administration are subject to judicial review and the jurisdictions of administrative branches have been designated by law. In this regard, those government employees who do not act in compliance with the limits specified by law can be subject to administrative and civil actions. Judicial oversight of the administration and the liability of government employees with respect to damages and offences that have arisen due to their personal negligence constitute some of the basic tenets of the system” (Turkey).

A number of pS discussed the role of the Constitutional Court, “an independent and autonomous state body which shall protect constitutionality and legality and human and minority rights and freedoms” (Serbia), and “checks the legality and constitutionality of the defence and security laws” (Romania). The decisions of the Constitutional Court are “final, enforceable and generally binding,” though “a constitutional appeal may be lodged against individual acts or actions performed by state bodies or organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or not specified” (Serbia).

One pS discussed “the checks carried out by the specialized courts,” including “the State Council,” tasked “in the field of litigation to be the ultimate judge of administrative activities. As such, it is led to decide on the legality of the acts of the Armies and the responsibility of the State;” as well as “The Court of Auditors,” described as “a specialized financial court which judges the regularity of expenditure. It controls the execution of the expenditure of the armed forces and internal security;” and “the Constitutional Council,” which “checks the constitutionality *a priori* and *a posteriori* of the laws voted by the Parliament. It strives to ensure the delimitation of the powers of the executive power and Parliament and especially to ensure respect by legislators of the rights





and freedoms constitutionally recognized to citizens” (France).<sup>78</sup> Other pS mentioned administrative courts, “established to protect the rights of individuals against unauthorized actions of public bodies and officials” (Lithuania).

Alternatively, another pS mentioned that while the police services are under exclusive control of the Government, “the Judges and the Office of the Attorney General are in charge of police activities related to judicial matters as provided for by law” (Andorra). In a similar vein, it was noted by another pS that “any member of the public may challenge the Commissioner of Police through the courts if, in his/her opinion, the police does not take any action upon any report denoting the commission of a criminal offence which has been brought to their knowledge. If the complaint is found to be justified, then the Courts may order the Commissioner of Police to initiate appropriate action” (Malta). One pS simply noted that judicial power extends “through the Judges, Courts, and the Public Prosecutor” (Spain).<sup>79</sup>

There were a number of pS that also mentioned the role of the **prosecutor’s office**, which “supervises the legality of activities by all Governmental officials” (Lithuania). In another pS, the Military Prosecutor Service “exercises control over observance of laws and military charters in military facilities during the execution of punishments, as well as over laws during their implementation in detention facilities where detained and arrested military servicemen are kept” (Azerbaijan). A few pS mentioned the prosecutor’s office in passing, but did not elaborate on its role (Belarus, Kazakhstan, Russia).

With regard to **disciplinary matters**, one pS noted that “compliance with regulations through civil servants is regardless of the responsibility under criminal law, ensured through the public services law and the disciplinary laws. A violation of official duties through a civil servant will be punished by disciplinary-judicial measures. The penalty depends on the severity of the violation of official duties and can lead to dismissal” (Austria), while another referred to legislation “on the disciplinary status of the members of the police force [that] defines... the ‘disciplinary infringements’, and cites the ‘ordinary disciplinary authorities’ competent to impose disciplinary sanctions, and the ‘higher disciplinary authorities’ competent to impose heavy disciplinary sanctions.” (Belgium).<sup>80</sup>

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<sup>78</sup> Original text: “les contrôles effectués par les juridictions spécialisées,” including “le Conseil d’Etat,” tasked “consistant dans le domaine contentieux à être le juge ultime des activités administratives. A ce titre, il est amené à se prononcer sur la légalité des actes des Armées et la responsabilité de l’Etat afférentes;” as well as “la Cour des comptes,” described as “une juridiction financière spécialisée qui juge de la régularité des dépenses. Elle contrôle à ce titre l’exécution des dépenses des forces armées et de sécurité intérieure;” and “le Conseil Constitutionnel,” which “opère un contrôle de constitutionnalité a priori et a posteriori des lois votées par le Parlement. Il s’efforce de veiller à la délimitation des compétences du pouvoir exécutif et du Parlement et surtout de garantir le respect par le législateur des droits et libertés constitutionnellement reconnus aux citoyens.”

<sup>79</sup> Original text: “través de los Jueces, Tribunales, y el Ministerio Fiscal.”

<sup>80</sup> Original text: “portant sur le statut disciplinaire des membres du personnel des services de police,” defining “les «transgressions disciplinaires», et énonce les «autorités disciplinaires ordinaires» compétentes pour infliger les sanctions disciplinaires légères et les «autorités disciplinaires supérieures» compétente pour infliger les sanctions disciplinaires lourdes”





A few pS discussed the work of **ombuds institutions**, which generally “investigate complaints concerning the abuse of office of government officials” (Lithuania), or have “jurisdiction to investigate certain complaints not linked with criminal investigations and court proceedings” (Malta). In one pS, the Ombudsperson “is an independent state body that protects the rights of citizens and monitors the work of state administration, the authority responsible for the legal protection of proprietary rights and interests of the Republic..., as well as other bodies and organizations, companies and institutions entrusted with public powers. Ombudsman is not authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and public prosecutors' offices. Ombudsman shall be elected and dismissed by the National Assembly, in accordance with the Constitution and the Law” (Serbia).

In other pS, a parliamentary ombudsperson “is elected by the Parliament to seek to prevent injustice being done by the Government, the Ministries or the other parts of the Public administration towards the citizens,” and “may look into cases ex officio or based on complaints from the citizens;” and though their decisions are not legally binding, may “give [a] reasoned opinion, and if necessary criticise the entity that has made the decision” (Norway). The Parliamentary Ombudsperson in another pS is “charged with legal supervisory competence, which extends over the activities of all authorities and other bodies performing public function” and works alongside the Chancellor of Justice, who “supervises the lawfulness of the official acts of the Government, the President of the Republic and all authorities and other bodies performing public functions” (Finland).

One pS mentioned a Civilian Review and Complaints Commission, described as “an independent agency created to provide independent civilian oversight of [police] members' conduct in performing their duties” (Canada).

A handful of pS also mentioned **public control** of security forces, and in particular the role of citizens, civil society, and/or the media in this context. Most of these references were brief; however, one pS described the role of its citizens in detail, noting that “in their role as supreme political and deciding state organ at both cantonal and federal level, [citizens] can both propose constitutional amendments of their own, or thwart legislation already approved by parliament.” Furthermore, citizens in this pS “have the final say on parts of the measures related to establishing, manning, funding and equipping the Armed Forces,” and “by means of a popular initiative citizens may even decide on fundamental questions, like whether [the State] should dispose of Armed Forces or not” (Switzerland).





### **3.3.2 General observations**

The purpose and scope of this question is unclear, and it is only by referring to the *2015 Working Paper to Improve Reporting* (FSC.DEL/29/15, 12 February 2015) that the intent of this question – to elucidate a “detailed description of how parliament carries out its role controlling the armed forces (e.g. parliamentary defence committee)” and an “explanation of practices and procedures in place to ensure the democratic control of armed forces” – becomes evident. However, the responses submitted by pS generally do not reflect these two elements indicated in the Working Paper. It is therefore challenging to draw out general points of comparison from responses to a question with no parameters.

#### **3.3.2.1 Further procedures, institutions and best practices at the executive and legislative levels (beyond 2.1) (RP 2.2.1)**

Given that Q 2.2 is a continuation of Q 2.1, the scope of responses received was understandably similar. However, as Q 2.2 had only one RP, which simply requested information “beyond 2.1,” the topics covered here by pS were broad and divergent. As outlined above, responses were distinguished in relation to the type of security forces described, as well as the type of control over these security forces. To this end, as pS were free to elaborate with little guidance, whether this is necessary as a separate question at all is worth considering.

The 2015 Working Paper suggests that the added value of Q 2.2 is that pS would provide “detailed description of how parliament carries out its role controlling the armed forces” (e.g. parliamentary defence committee); and “explanation of practices and procedures in place to ensure the democratic control of armed forces,” yet responses of this nature were limited.

Some pS discussed different types of control (i.e. internal, external, executive, administrative, political, representative, parliamentary, legal, public, etc.), alongside mentions of oversight and accountability within the security forces in general. However, as this question did not differentiate and/or specify which security forces to discuss, there was therefore no consistency among responses to this question.

It is noteworthy that some pS provided a response to this question, and not to Q 2.1; at the same time, a number of pS referred to Q 2.1 in their responses instead of providing further details pursuant to Q 2.2.







### 3.3.3 In Focus: Norway

Norway's responses to Q 2.2 remained (with the exception of minor linguistic changes) identical in the three years under consideration. Reflecting the ambiguous scope of this question and taking an approach shared by many other pS, Norway's responses referred back to responses submitted under Q 2.1. As the sole RP to Q 2.2 itself refers to 2.1 (i.e., *Further procedures, institutions and best practices at the executive and legislative levels [beyond 2.1]*), this is an unsurprising result.

**Table 3: Norway's responses to Question 2.2 in 2010, 2014, and 2018 (full text)**

2010 (166 words)	2014 (163 words)	2018 (162 words)
As mentioned above under a), the Norwegian Armed Forces are subject to the direct political and democratic control of the Parliament.	As mentioned above under a), the Norwegian Armed Forces are subject to the political and democratic control of the Parliament.	As mentioned above under a) the Norwegian Armed Forces are subject to the political and democratic control of the Parliament.
In addition to this, several parliamentary committees, including the Committee for Monitoring the Intelligence, Surveillance and Security Services and the Defence Committee have been established by the Parliament, as an additional apparatus for ensuring the full implementation of political and democratic control. These committees are subject to the instructions of the Parliament.	In addition to this, several committees, including the parliamentary appointed Norwegian Parliamentary Intelligence Oversight Committee and the "Standing Committee for Defence and Foreign Affairs" have been established as additional apparatus for ensuring the full implementation of political and democratic control. These committees are subject to the instructions of the Parliament.	In addition to this, several committees, including the parliamentary appointed Norwegian Parliamentary Intelligence Oversight Committee and the "Standing Committee for Defence and Foreign Affairs" have been established as additional apparatus for ensuring the full implementation of political and democratic control. These committees are subject to the instructions of the Parliament.
Furthermore, the Parliamentary Ombudsman is elected by the Parliament to seek to prevent injustice being done by the Government, the Ministries or the other parts of the Public administration towards the citizens.	Furthermore, the Parliamentary Ombudsman is elected by the Parliament to seek to prevent injustice being done by the Government, the Ministries or the other parts of the Public Administration towards the citizens.	Furthermore, the Parliamentary Ombudsman is elected by the Parliament to seek to prevent injustice being done by the Government, the Ministries or the other parts of the Public administration towards the citizens.
The Ombudsman may look into cases ex officio or on the basis of complaints from the citizens. The Ombudsman's decisions are not legally binding, however, he may give his reasoned opinion, and if necessary criticize the entity that has made the decision.	The Ombudsman may look into cases ex officio or on the basis of complaints from the citizens. The Ombudsman's decisions are not legally binding; however, he may give his reasoned opinion, and if necessary criticize the entity that has made the decision.	The Ombudsman may look into cases ex officio or based on complaints from the citizens. The Ombudsman's decisions are not legally binding, however, he may give his reasoned opinion, and if necessary criticize the entity that has made the decision.
The Parliament elects the Ombudsman for 4 years at a time. He is, however, otherwise meant to be independent.	The Parliament elects the Ombudsman for 4 years at a time. He is, however, otherwise meant to be independent.	The Parliament elects the Ombudsman for 4 years at a time. However, he is otherwise meant to be independent.





### **3.4 Question 2.3: What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?**

**Reference points:**

1. *National and international threat assessment/information on respective adaptations to a changing international security environment;*
2. *Foreign defence vs. internal security (assistance) missions of the armed forces; including subsidiary policing and public order missions;*
3. *Additional information on the status and missions of paramilitary and security forces and their respective assignment to internal security missions and/or international peace and constabulary missions;*
4. *Specific information on paramilitary and/or security forces; or explanation why precisely you don't maintain such forces; or: information on how you otherwise define these forces according to the tradition of your national security framework.*

Source: 2010 Reference Guide (FSC.DEL/142/10, 2 November 2010)

Three pS noted that they did not have armed forces and/or military, paramilitary, or (internal) security forces (Iceland, Liechtenstein), or intelligence services (Andorra), and one did not respond to Section II of the Questionnaire.

There were four pS that responded by referring to other sections of their report, i.e. to their responses to Qs 1.1, 2.1, and 2.2 in Section II (Estonia, Lithuania, Netherlands, Norway); and two which indicated that responses provided in previous years remained valid (Holy See, Mongolia).

There was a striking lack of coherence between the different types of internal forces of pS, and in particular, the relationship between the police and any of these forces. Though the overarching question of 2.3 refers to the roles and missions of various forces, the notions of “role” and “mission” are used rather interchangeably.





### 3.4.1 Overview of responses

#### 3.4.1.1 *National and international threat assessment/information on respective adaptations to a changing international security environment (RP 2.3.1)*

Generally, pS did not respond to this RP. One noted that it “shares its security and defence interests with other NATO member states” (Czech Republic), while another explained that, whenever its military forces “are requested by the UN, NATO or the OSCE to participate in peacekeeping, humanitarian and other operations, the government undertakes a thorough and careful analysis of the specific situation prior to any decision” regarding its contribution (Denmark). To this end, one pS observed that “successful implementation of the military missions requires the availability of resources, high combat readiness and close interagency cooperation” (Georgia). In another, a “White Paper sets out the defence policy response to security challenges, including the defence contribution to international peace and security,” and to ensure a flexible and adaptive response from Defence, the White Paper provides for regular review of defence requirements (Ireland). One pS responded by outlining the five pillars on which its defence strategy is based: “maintaining the transatlantic link through a genuine partnership within NATO as a collective security alliance; strengthening the European identity in terms of security; strengthening the role of the United Nations in promoting peace and international security; support to the Organization for Security and Co-operation in Europe and, in particular, with regard to the issue of human rights, non-proliferation, arms control and disarmament; cooperation with, in particular, European and African countries in a multi- or bilateral context” (Belgium).<sup>81</sup>

#### 3.4.1.2 *Foreign defence vs. internal security (assistance) missions of the armed forces; including subsidiary policing and public order missions (RP 2.3.2)*

A number of pS directly referenced the **constitutional article or legislative act** that outlines the roles and missions of armed forces.<sup>82</sup> In general, armed forces are mandated, *inter alia*, to “safeguard sovereignty and independence and to defend territorial integrity” (Croatia). The role of the armed forces have also been described as “exclusively subordinated to people’s will in order to guarantee the sovereignty, the independence and the unity of the state, the territorial integrity of the country and the constitutional democracy under the provisions of the law and of the international treaties” to which the pS has committed (Romania).

<sup>81</sup> Original text: “maintien du lien transatlantique via un partenariat authentique au sein de l’OTAN en tant qu’alliance de sécurité collective; renforcement de l’identité européenne sur le plan de la sécurité; renforcement du rôle des Nations Unies pour la promotion de la paix et de la sécurité internationale; l’appui à l’Organisation pour la Sécurité et la Coopération en Europe et plus particulièrement, en ce qui concerne la problématique des droits de l’homme, la non-prolifération, le contrôle de l’armement et le désarmement; la coopération avec, en particulier, les pays européens et africains dans un contexte multi- ou bilatéral.”

<sup>82</sup> Belarus, Bulgaria, Croatia, Cyprus, Georgia, Germany, Hungary, Romania, Serbia, Slovakia, Spain, and Tajikistan.





Some pS outlined the **constitutional limits** of, and mechanisms for **control over**, the armed forces. In most pS, parliament is the only organ that approves defence and security laws (Albania, Canada). Parliamentary control is exercised through legal means and employs “laws, defence budget and policies execution in order to ensure that the Armed Forces act only within the constitutional framework” (Albania, Netherlands, Serbia). In some pS, “members of Parliament can draw attention to... Armed Forces acts that in their view may be contrary to the Constitution” (Switzerland). Many pS listed the relevant legislation and provisions that serve to ensure their armed forces operate within the constitutional framework (Canada, Hungary, Montenegro). Some also mentioned the role of the Council of Ministers and various governmental and parliamentary committees in supervising the armed forces (Albania, Belarus, BiH, Montenegro, Poland, Serbia); cited the role of the judiciary in armed forces oversight, emphasizing the importance of “the judicial function exercised by judges who are independent of the executive and legislative power who oversee compliance with the rules” (Italy);<sup>83</sup> or noted the role of the Prosecutor General (Tajikistan). One pS explained that the armed forces “may become involved in the performance of other tasks not provided for in this Law, but only by an order of the Cabinet of Ministers” (Latvia), while another noted that, as a general rule, “authorities are prohibited from taking action within other areas than those set out in laws or other regulations, or decided by a superior body, i.e. the Government” (Sweden). In some pS, a set limit exists for the size of the armed forces (Cyprus). Most pS highlighted that the armed forces are “neutral in terms of ideology, interests and political parties” (Serbia), and “shall not be engaged in any political activity of political parties or be selected or appointed to public functions,” nor can these forces be used on behalf of political parties for political purposes (BiH).

Many pS provided a list of the **missions** to which their armed forces are tasked. Responses to this RP served as the bulk of responses in this section, but in general, they were vague and discussed a broad scope of activities. Key tasks of the armed forces fall into the following categories:

*Sovereignty*: protect the sovereignty, independence, and territorial integrity of the country (Albania, Croatia, Denmark, Italy, Kazakhstan, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Portugal, Russia, Slovakia, Sweden, Tajikistan); ensure the security, safety, and inviolability of frontiers (Armenia, Azerbaijan); secure the integrity of land, territorial waters, and airspace (Ireland, Kazakhstan, Malta, Portugal, Ukraine), the constitutional order, and the safety of the people (Estonia); protect the territory, independence, citizens, and material wealth of the country against external attack (Hungary); assure the inviolability of the land, airspace, and territorial waters (Latvia); protect the population and the State and contribute to its safety (Switzerland); ensure the safekeeping of nationals

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<sup>83</sup> Original text: “funzione Giudiziaria esercitata da Giudici indipendenti dal potere esecutivo e legislativo che vigilano sull’osservanza delle norme.”





abroad (Portugal); protect “security and freedom of communication routes, areas of national sovereignty (embassies) and compatriots abroad” (Italy)<sup>84</sup>

Defence: provide military defence to the State (Austria, BiH, Canada, Estonia, Finland, Slovenia, UK, Ukraine) against external attack (Czech Republic, Poland, Portugal, Sweden); prevent armed attack and aggression (Azerbaijan, Ireland, Kazakhstan, Tajikistan); neutralize possible military offensives (Armenia); detect military threats and manage them (Armenia); prevent situations that constitute a threat to the State in accordance with the procedures laid down in laws and regulations (Latvia); defend against aggression or other armed attack (Lithuania, Poland); safeguard premises important for state defence (Czech Republic); guard installations of importance to defence that require enhanced protection (Hungary); defend state and military facilities (Kazakhstan); remove other imminent danger by military engineering (Czech Republic); strengthen border security (Ukraine)

Constitutional order: protect the constitutional order as determined by law (Albania, Ukraine); protect constitutionally established institutions (Italy, Kazakhstan) and their capacity to operate, as well as the democratic freedoms of the population (Austria); ensure the “safeguarding of free institutions” (Italy);<sup>85</sup> restore constitutional law and order in the case of attempts to seize state power or change the constitutional order by means of violence, in restoration of the activity of state authorities and local self-government bodies (Ukraine)

Law and order: maintain order and security inside the country in general (Austria, Ireland); support and assist civilian authorities in maintaining law and order (The Netherlands, Ukraine); perform the tasks of the police (only in cases where police resources are insufficient to achieve internal order and security and only for a period of necessity) (Czech Republic); support homeland security and provide aid to the public (Poland); “be used to assist the police and the Federal Police in the protection of civilian objects and in the fight against organized and militarily armed insurgents, if the forces of the police and federal police are insufficient for this task” (Germany);<sup>86</sup> support other authorities in responding to non-military threats (including situations involving terrorism) (Finland); participate in the prevention and neutralization of subversive activities and terrorist acts (Armenia, Italy, Kazakhstan, Poland, Ukraine); maintain a presence “in areas incurring menace” (Albania); “protect civilian objects from attack and perform traffic regulation tasks to the extent necessary” (Germany);<sup>87</sup> execute politically defined tasks of public interest (Portugal);

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<sup>84</sup> Original text: “la sicurezza e la libertà delle vie di comunicazione, delle aree di sovranità nazionale (Ambasciate) e dei connazionali all'estero.”

<sup>85</sup> Original text: “salvaguardia delle libere istituzioni.”

<sup>86</sup> Original text: “Unterstützung der Polizei und der Bundespolizei beim Schutz von zivilen Objekten und bei der Bekämpfung organisierter und militärisch bewaffneter Aufständischer eingesetzt werden, wenn die Kräfte von Polizei und Bundespolizei für diese Aufgabe nicht ausreichen.”

<sup>87</sup> Original text: “zivile Objekte vor Angriffen zu schützen und Aufgaben der Verkehrsregelung wahrzunehmen, soweit dies zur Erfüllung.”





provide public safety and protection of the public order during holding meetings, processions, demonstrations and other mass actions that pose a risk to the life and health of citizens (Ukraine); respond to rioting (Ukraine); restore law and order in cases of inter-ethnic and inter-confessional conflicts, and unblock or prevent illegal actions in cases of seizure of important state facilities or areas, which threaten the safety of citizens and violate the normal activity of state power and local authorities (Ukraine); implement measures of the legal regime of martial law (Ukraine)

*Disaster and emergencies:* render assistance in emergency situations (Armenia, Italy) and disaster relief operations (Estonia, Georgia, Hungary, Netherlands, Portugal, Slovakia, Switzerland, UK, Ukraine); respond in the case of natural catastrophes and disasters of exceptional magnitude (Austria, BiH, Germany, Luxembourg, Montenegro, Slovakia); assist the population in cases of natural and industrial disasters and warn them of risks of a military and non-military nature (Albania); assist the institutions of civil authority, and organizations and services for the protection and rescue of the population, in cases of disasters and accidents, in search and rescue operations, and in the transport of injured or sick persons (Armenia, Croatia, Ireland, Portugal, Slovenia, UK); provide fire-fighting protection (Croatia); perform salvage operations during disasters or calamities or other significant situations that jeopardize lives, health, high value assets, or the environment, or to mitigate the effects of disaster (Czech Republic, Slovakia); provide civil emergency protection support (related to explosives, marine pollution, floods, and other disasters) (Malta); identify emergency response capabilities to support central and local public administration and appropriate inter-institutional response in emergency situations (Romania)

*Public duties:* provide cultural, educational, sporting, and other social events (Czech Republic); offer ceremonial services on behalf of the Government (Ireland, Malta); ensure transportation services according to Government resolutions (Czech Republic); arrange for the air transportation of state agents (Ireland); provide medical and other air services (Czech Republic)

*International obligations:* fulfil international obligations (Armenia, BiH, Italy, Kazakhstan, Lithuania, Portugal, Tajikistan); “participate in the verification and control of the execution of international treaties” (Luxembourg);<sup>88</sup> partake in international military obligations of the State (Estonia, Hungary, Latvia, Russia, Slovakia, Slovenia, Ukraine); engage in collective security, peace support, and self-defence operations (Luxembourg), and in the fight against terrorism (BiH); provide collective self-defence (Czech Republic); participate in international operations as part of multinational forces (Albania); provide support in the defence of allies in the case of armed attack against one or more of them in accordance with any international treaties (Croatia); conduct operations to restore peace and stability

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<sup>88</sup> Original text: “participer à la vérification et au contrôle de l’exécution des traités internationaux.”







(UK); reinforce international security and the collective capacity of allies, partners, and multilateral institutions (UK)

*Peacekeeping:* participate in international humanitarian, rescue, and peacekeeping operations (Armenia, Ireland, Luxembourg, Montenegro, Norway, Poland, Portugal, Romania, Ukraine, UK, US); engage in peace support operations, crisis response operations, humanitarian operations, and other activities abroad (BiH, Denmark, Croatia, Latvia, Russia, Spain, Switzerland); participate in international assistance and cooperation (Finland)

*Peace and stability:* strengthen regional (Georgia) and global security (Canada); contribute towards international peacebuilding (Montenegro) and stability (Malta, Poland, Russia, Sweden); promote the international rule of law and stability (The Netherlands, Poland); participate in crisis management (Finland, Hungary, Ireland, Italy, Luxembourg, Portugal); engage in “crisis prevention and management operations, in order to guarantee peace, security, stability and international legality, as well as the upholding of fundamental human rights” (Italy);<sup>89</sup> promote peaceful development in the world with respect for human rights (Denmark); participate in solving local or regional armed conflicts within NATO's area of responsibility, or outside it (Poland); prevent war and preserve peace (Switzerland); contribute to an improved understanding of the world through strategic intelligence and the global defence network (UK)

*Working with international organizations:* contribute to international security by participating in multilateral operations (UN, OSCE, NATO, and EU) (Luxembourg, Norway, Portugal, Slovakia, Slovenia); take part in joint efforts of the EU in the spirit of solidarity should any member be exposed to a terrorist attack or fall victim of a natural or man-made disaster (Croatia); protect “Euro-Atlantic spaces, in the framework of the strategic or vital interests of the country, through contribution to NATO's collective defence” (Italy);<sup>90</sup> contribute towards international peace and stability by participating in the EU's Military Headline Goal (Malta); provide troops to UN peace operations, EU operations, and NATO operations (Norway); pursue the endowment of modern equipment, compatible and interoperable with those used by other NATO countries or EU member states (Romania); conduct major combat operations if required, including under NATO Article 5 (UK)

Several interesting tasks listed by pS, which do not fit into the categories above, also include: supporting civil society in the event of severe peacetime strains and emergencies (Sweden); preventing and counteracting cyber threats (Romania); providing a nuclear deterrent and conducting strike operations (UK); undertaking de-mining activities (BiH); contributing to economic well-being through engagement with industry, research, and development and job initiatives, in support of government policy (Ireland); terminating the illegal actions of detained or arrested

<sup>89</sup> Original text: “operazioni di prevenzione e gestione delle crisi, al fine di garantire la pace, la sicurezza, la stabilità e la legalità internazionale, nonché l'affermazione dei diritti fondamentali dell'uomo.”

<sup>90</sup> Original text: “spazi euro-atlantici, nel quadro degli interessi strategici o vitali del Paese, attraverso il contributo alla difesa collettiva della NATO”





persons, and liquidating the consequences of such actions in pre-trial detention facilities or penal institutions (Ukraine).

Two pS noted the **disciplinary** measures in place for service personnel. To ensure their lawful behaviour, one pS noted that “serious violations by... Armed Forces personnel are dealt with according to penal law, while misdemeanours are subject to internal disciplinary measures,” where superior staff have a similar responsibility for their subordinates (Sweden). In the same vein, the other pS that discussed this emphasized the individual accountability of service personnel, whereby members of the armed forces are not “obliged to execute an order which requires a behaviour punishable according to domestic or international law” (Switzerland).

#### **3.4.1.3 Additional information on the status and missions of paramilitary and security forces and their respective assignment to internal security missions and/or international peace and constabulary missions (RP 2.3.3)**

Some pS provided substantive descriptions of the different types of forces within their national security frameworks. However, the types of these forces vary, and the tasks of similarly named forces across pS generally do not align with each other. In particular, the terms “internal troops,” “internal security forces,” “state security bodies,” and “security agencies” are used interchangeably. Moreover, national guards, gendarmeries, etc. occupy different spaces within the internal security framework. Yet, while most pS discussed the role of the police, few discussed their border and intelligence services, any voluntary or reserve troops, or forces tasked with ceremonial duties.

As noted above, a number of pS discussed the existence of “**internal troops**,” “internal security forces,” “security forces,” “state security bodies,” “public order and safety forces,” “military security forces,” and “internal security agencies.” The types of tasks and scope of powers of these forces varies across pS, and there appears to be little consistency in the use of these terms. Belarus mentioned, for example, both “internal security forces”<sup>91</sup> and “state security bodies,”<sup>92</sup> while Russia discussed “militarized security forces.”<sup>93</sup>

Azerbaijan provided a detailed list of the responsibilities of internal troops and defined their main duties, including the protection of major state objects, communication facilities, and the transportation of special consignments; participation in the elimination of the consequences of incidents, fires, natural disasters, and other similar situations in protected objects and facilities; participation in the search and apprehension of persons intruding upon protected areas; assistance to prevent mass riots at penitentiaries; participation in the search and apprehension of fugitive convicts and detainees; the protection of storehouses and military facilities of the Material and Technical, as well as Military Supplies Departments at the Ministry of Internal Affairs;

<sup>91</sup> Original text: “Силы внутренней безопасности.”

<sup>92</sup> Original text: “Органы государственной безопасности.”

<sup>93</sup> Original text: “Военизированные силы и силы.”





participation in providing public order along with other Internal Affairs Bodies in cities and residential areas through joint patrolling, as well as public safety during mass events; assistance to other Internal Affairs Bodies in rescue operations, protection of property and safeguarding of public order during accidents, fires, natural disasters and other emergency situations, as well as in providing legal measure in emergency situations; participation in preventing mass riots in residential areas; and when necessary, participation in protection of the territories of the Republic.

Moldova also provided a list of responsibilities of its security bodies, which are designated as special structures of the executive designed to ensure state security. These responsibilities are to: defend Moldova's independence and territorial integrity; ensure protection of the state borders, enforce the constitutional order, and ensure human rights and liberties; provide information and intelligence needed for government activity; conduct counter-intelligence against the illegal activities of special services or organizations of other states; provide the Parliament, the President, and the Government with information required to solve state security issues; combat terrorism, organized crime, and corruption; provide security for national and foreign high officials; and ensure, along with the Border Police, security of the borders. Spain provided a similarly lengthy listing of the responsibilities of Las Fuerzas y Cuerpos de Seguridad (FCS).

On the other hand, Greece noted simply that “the security forces aim at the maintenance of internal stability in the country and the protection of the security and life of Greek and foreign citizens in Greek territory. Their mission is determined in detail by the legislation passed by the Parliament.” By the same token, Serbia reported that the “role of the military forces in the field of defence is governed by Article 20 of the Law on Defence, which provides that the security and intelligence affairs that are of importance to the defence include security activities, counter-intelligence activities, intelligence activities and military police activities that are conducted subject to separate laws.” As a further indication that there is no common understanding of what forces constitute “internal security forces,” Germany responded that for “Forces of Internal Security, see sections on Intelligence Services and Police.”<sup>94</sup>

In Latvia, security forces include the Constitution Protection Bureau, the Military Intelligence and Security Service, and the Security Police, each of which are state security institutions with competence determined by special laws. Alternatively, in Romania, public order and safety forces are part of the structures of the Ministry of Internal Affairs (MIA), which include the Police, the Gendarmerie, the Border Police, the Authority for Foreigners, the National Office for Refugees, the Directorate for Persons' Record and Databases Management, The National Administration for State Reserves and Special Issues, and the Aviation General Inspectorate. The MIA is responsible for ensuring “public order, the fundamental human rights and freedoms, the observance of the public and private property” and is tasked to “prevent and fight against crime; to consolidate democratic society; to defend the independence, sovereignty and territorial integrity of the state.” Similarly, Slovakia mentioned several security forces, including the Police Corps, the Justice and Prison Guard Corps, Customs Officers, the Slovak Information Service, and the National Security

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<sup>94</sup> Original text: “Kräfte der inneren Sicherheit, siehe unter den Abschnitten Nachrichtendienste und Polizei.”





Authority. The US also listed several federal government agencies involved in the protection of internal security, including the FBI and the Marshals Service within the Department of Justice; the Secret Service, Immigration and Customs Enforcement (ICE), and the Coast Guard within DHS (except when the Coast Guard is operating as a specialized service under the Navy in times of war or when directed by the President; by statute, the Guard is a military service and branch of the Armed Forces).

A few States mentioned a **National Guard** as part of their security infrastructure. In Cyprus, its National Guard operates under the auspices of the MoD, with a stated mission to: “provide assistance to the Army and the security forces of the Republic, through the adoption of all necessary measures to safeguard the defence of the Republic, in order to counter the threat of invasion or any other act directed against the independence and sovereignty of the Republic, or that threatens the security of life or property of the citizens of the Republic.” Portugal included a long list of tasks assigned to its National Republican Guard, in addition to which the Guard performs regular and permanent police duties, namely in areas considered high risk. They operate totally autonomously, but also in collaboration with other public and private investigation agencies, when required to assist with investigations. In Russia, the “National Guard troops of the Russian Federation are intended to ensure the security of the individual, society and the state, to protect the rights and freedoms of a person and citizen from criminal and other unlawful attacks.”<sup>95</sup> The State Guard of Ukraine ensures the security of officials in Ukraine and abroad, as well as their family members; prevents illegal encroachment of officials and objects under state security, their detention and suppression; and participates in activities aimed at combating terrorism. In the US, “members of the National Guard are under the authority of the governors of their states when not in Federal service. When in Federal service under U.S. law, the members of the National Guard have the same status as members of the regular Armed Forces, for all practical purposes. Members of the reserve forces are subject to the same conditions of service as members of the regular Armed Forces when they are called to active duty. The importance of the reserves and the National Guard has greatly increased, as they have been regularly called up for duty for military installation security, peacekeeping, and other military operations. This is particularly significant in specialized areas such as civil affairs and military policing where the military personnel with these needed skills are concentrated primarily in reserve and National Guard units.”

Several p5 mentioned the **Gendarmerie** and/or Carabineer Troops, either separately or alongside police forces. Romania, for example, explained that the “Gendarmerie is the specialized state institution, with military status, part of the Ministry of Internal Affairs, which has, under legal provisions, attributions on defending public order, fundamental rights and freedoms of the citizens, public and private property and on the protection of the fundamental state institutions and combating terrorist acts.” The Carabineer Troops of Moldova serve the purpose to help, along with the police, keep public order and defend citizens' rights, liberties and interests; to support police in enforcing public order and in crime disclosure; to execute guarding missions within penitentiary

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<sup>95</sup> Original text: “Войска национальной гвардии Российской Федерации предназначены для обеспечения безопасности личности, общества и государства, защиты прав и свобод человека и гражданина от преступных и иных противоправных посягательств.”





sites; to provide security and defence of significant objects and transports; and to participate in disaster, humanitarian, or crisis response operations. San Marino stated that its Corps of the Gendarmerie “performs all tasks pertaining to Public Security, Judicial, Investigating and Anti-narcotics Police under the authority of the Court, while it performs all other tasks under the authority of the Ministry of Foreign Affairs. Gendarmerie officers are recruited among specifically trained professionals. The Gendarmerie is divided into several units and brigades covering the entire territory.”

Some pS discussed the Gendarmerie as a *part* of the police forces. For example, Italy stated that “the Police Forces (State Police, Carabinieri Force, Guardia di Finanza) have general jurisdiction over the protection of order and public security and have the competencies of Judicial Police. They operate within the framework of current legislation and in the course of their activity are subject to administrative (disciplinary) and jurisdictional control of the Judiciary, both civil and criminal.”<sup>96</sup> Similarly, France noted that the main roles of both the police and the gendarmerie are “public security and peace” and “intelligence and information,” and that they work alongside “the judicial police, whose purpose is, under the direction, control and supervision of the judicial authority, to search for and record criminal offenses, to gather evidence, to search for perpetrators and their accomplices, to arrest them and to refer them to the competent judicial authorities.” There are some distinctions, however, as the “national police force operates throughout the national territory, especially in municipalities or groups of municipalities whose population is greater than 20,000 inhabitants whose delinquency has the characteristics of urban areas,” while the “national gendarmerie is a military force with military status which exercises its action on the whole national territory as well as for the benefit of the armies, of all the ministerial departments, and more particularly of those of the Interior, the Justice and of the Armed Forces. As for the armed forces, the intervention of the military of the gendarmerie in the maintenance of law and order can be done only on requisition of the civil or judicial authorities in the enclosures where they are competent.”<sup>97</sup>

Most pS mentioned the **police** forces as a distinct feature of their internal security infrastructure. Yet, responses were again varied, with Belgium for instance providing an extremely detailed

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<sup>96</sup> Original Italian text: “Le Forze di Polizia (Polizia di Stato, Arma dei Carabinieri, Guardia di Finanza) hanno competenza generale in materia di tutela dell’ordine e sicurezza pubblica ed hanno attribuzioni di Polizia Giudiziaria. Esse operano nell’ambito della vigente normativa e nello svolgimento della loro attività sono soggette al controllo amministrativo (disciplinare) e giurisdizionale della Magistratura, sia civile sia penale.”

<sup>97</sup> Original text: “la sécurité et la paix publiques” and “le renseignement et l’information,” and that they work alongside “la police judiciaire, ayant pour objet, sous la direction, le contrôle et la surveillance de l’autorité judiciaire, de rechercher et de constater les infractions pénales, d’en rassembler les preuves, d’en rechercher les auteurs et leurs complices, de les arrêter et de les déférer aux autorités judiciaires compétentes.” There are some distinctions, however, as the “police nationale exerce son action sur l’ensemble du territoire national, en particulier dans les communes ou ensemble de communes dont la population est supérieure à 20.000 habitants dont la délinquance a les caractéristiques des zones urbaines,” while the “gendarmerie nationale est une force armée à statut militaire qui exerce son action sur l’ensemble du territoire national ainsi qu’au profit des armées, de tous les départements ministériels, et plus spécialement de ceux de l’Intérieur, de la Justice et des Armées. Comme pour les forces armées, l’intervention des militaires de la gendarmerie au maintien de l’ordre, ne peut se faire que sur réquisition des autorités civiles ou judiciaires dans les enceintes où ils sont compétents.”





breakdown of federal and local forces, whereas others simply mentioned police forces in passing in this context.

In Azerbaijan, the main duty of the police is “to protect lives, health, rights and freedoms of people, legal interests and property of the state, natural and legal persons from illegal offenses,” while in Romania, the police force “is the specialized state institution that exercises attributions on defending the fundamentals rights and freedoms of the individual, the public and private property, on the prevention and discovering of the offenses, on the observance of the public order and safety under the law.” In Bulgaria, guiding principles related to policing include “consistency with the Constitution, Laws and International Treaties, guarantee of the rights and freedoms of the citizens and their dignity, execution of civilian control over the Military Police Service’ activities, etc.” Portugal (Public Security Police) and Slovakia (Police Force) both provided a long list of tasks assigned to their police forces; and San Marino noted that the role and functions of police forces are governed by the regulations of each military corps, including the Corps of the Gendarmerie, Fortress Guard, Uniformed Militia, and the Guard of the Great and General Council.

Some pS discussed *control and oversight* of the police forces. Azerbaijan engages in both internal (in-department) and external (out-of-department) monitoring of police activities, with the former conducted by the Ministry of Interior and the latter by the President. In Germany, “in all states, the service, technical and legal supervision of the police is assigned to the Minister of the Interior or Senator of the Interior.”<sup>98</sup> In Slovakia, the activity of the police force is subordinated to the control of the National Council and to the Minister. State and local police forces in the US are subject to the control of elected executive and legislative officials of state and local governments, and to the judicial review of the courts.

The **reserve forces** were also mentioned by some pS, alongside **voluntary forces**. In the Czech Republic, the Active Reserve Forces is a part of the Reserve Forces Armed Forces, and its typical tasks during peacetime are natural disaster relief and guarding sites important to national defence. In Denmark, the tasks of the Danish Home Guard, a voluntary military organization, are to participate as part of the military defence in solving tasks for which the Army, Air Force, and Navy are responsible. The Danish Home Guard also plays an active and important part in the combined preparedness of society (i.e., total defence). In Estonia, the Defence League is a voluntary organization governed by public law, the purpose of which is to promote the will of the population to defend its country if necessary. The National Defence Volunteer Force (NDVF) in Lithuania is a part of Land Force that employs a small portion of professional soldiers and a large number of volunteers (active reserve servicemen), who do not serve on a regular basis but perform their duties up to 30 days per year in accordance with training programmes. The main goal of NDVF is to prepare for and conduct territorial defence tasks. Also in Lithuania, the Riflemen's Union is a state-sponsored voluntary paramilitary organization that contributes to strengthening state defence capabilities, promoting civic and patriotic education, and supporting the Armed Forces,

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<sup>98</sup> Original text: “in allen Ländern steht die Dienst-, Fach- und Rechtsaufsicht über die Polizei dem Innenminister bzw. Senator für Inneres zu.”







Police, and the State Border Guard Service, as well as educational, civil protection, and rescue institutions.

A number of pS discussed their **border services** and/or guard. The State Border Guard Service of Ukraine, for example, is charged with ensuring the inviolability of state borders and protecting the sovereignty of Ukraine within its exclusive (maritime) economic zone. Similar language was used by Azerbaijan. In Estonia, the main tasks of the Border Guard are to control and defend the border on land and in territorial waters, to conduct sea surveillance and limited air surveillance to support those tasks, to prevent violent alterations of the border, and to carry out search and rescue operations. In Finland, its Border Guard is subordinate to the Ministry of the Interior, and has six core functions: border surveillance, border checks, crime prevention, maritime safety, international co-operation, and national defence. The Border Guard of Poland is also responsible for protecting the state border on land and at sea, as well as border traffic control, and acts as a separate, unitary, uniformed, and armed police-type service. Romania reported that its Border Police is part of the Ministry of Internal Affairs and represents the specialized state institution with competence for border crossing oversight and control of the state border, preventing and combating illegal migration and criminal border-crossing acts, observing the legal regime of the state border related to passports, and ensuring the interests of the state between the Danube and Sulina Channel.

Only a few pS also discussed their internal **intelligence services**. Some provided substantial detail into the oversight and control of these bodies, such as Germany and Spain, whereas most discussed these details in passing. The State Security Service of Azerbaijan, for example, was described as organizing and conducting counter-intelligence and operational search activities and conducting investigations and initial investigations into criminal cases under its competence. In Bulgaria, military intelligence is based on the following principles: compliance with the Constitution, laws, and international treaties to which Bulgaria is a part; respect for the rights and freedoms of citizens and their dignity; interaction with public authorities, security services, and public order; the centralized management and control of intelligence; the observance of political neutrality; objectivity and impartiality. In Germany, the main tasks of its intelligence service are the “collection and analysis of information on extremist and security-endangering activities, efforts of national and foreigners directed against the idea of international understanding, as well as any activities of opposing intelligence services.”<sup>99</sup> In the US, intelligence services operate under the direction and oversight of the President and are also subject to congressional oversight.

Other **specialised forces** mentioned by pS include the Castle Guard of the Czech Republic, the mission of which is to guard presidential residences/sites and temporary presidential residences, provide security to the President, and organize and co-ordinate military parades of honour, especially during visits of foreign governments. Similarly, both the Uniformed Militia and the Guard of the Great and General Council of San Marino take part in official ceremonies and, in some

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<sup>99</sup> Original text: “Sammlung und Auswertung von Informationen über extremistische und sicherheitsgefährdende, sowie gegen den Gedanken der Völkerverständigung gerichtete Bestrebungen von In- und Ausländern und die Tätigkeit gegnerischer Nachrichtendienste.”





circumstances based on need, co-operate with other forces to guarantee order and security. The Guard of the Great and General Council (also called the Noble Guard) accompanies and escorts diplomats during the Ceremony for the Presentation of Credentials, as well as foreign heads of state and members of government during state visits, and assists with official ceremonies including carrying the responsibility for flag-raising and lowering. The State Special Transport Service of Ukraine is another specialized military formation, which is part of the Ministry of Defence and is intended to ensure the sustainable operation of transport in peacetime and during certain periods; its responsibilities include, *inter alia*, technical protection, reconstruction, and the installation of barriers at sites of the national transport system to ensure the activity of the Armed Forces and other military formations; and construction and repair in peacetime and under conditions of martial law of new working installations of the national transport system to increase their term of operation and carrying capacity. There is also a State Service for Special Communication and Information Protection in Ukraine, which is designed to ensure the functioning and development of the state system of government communication and the national system of confidential communication, as well as to contribute to forming and implementing state policy in the cryptographic and technical protection of information, among other tasks.

**3.4.1.4 Specific information on paramilitary and/or security forces; or explanation why precisely you don't maintain such forces; or: information how you otherwise define these forces according to the tradition of your national security framework (RP 2.3.4)**

*Canada:* no paramilitary or internal security forces.

*Czech Republic:* no Other Forces or paramilitary units; however, specialized units such as the Castle Guard and Reserve Forces.

*Denmark:* no paramilitary or internal security forces.

*Germany:* no paramilitary forces.<sup>100</sup>

*Hungary:* no paramilitary or internal security forces.

*Ireland:* no paramilitary or internal security forces.

*Latvia:* no paramilitary forces.

*Malta:* no paramilitary or security forces.

*Montenegro:* no Private Military and Security Companies (PMSC) or paramilitary forces.

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<sup>100</sup> Original text: "verfügt nicht über paramilitärische Kräfte."





*Norway:* no paramilitary or security forces.

*Portugal:* no paramilitary forces.

*Romania:* no paramilitary forces.

*Serbia:* organization into paramilitary formations is prohibited, pursuant to Article 55(3) of the Constitution. According to Articles 33 and 117 of the Law on Defence, any kind of paramilitary organization and association aimed at the execution of tasks pertaining to defence of the country in the country is prohibited and subject to criminal liability. Organizing into paramilitary formations is also prohibited pursuant to Article 2(4) of the Law on Defence (*Official Gazette of the RS*, Nos. 51/09 and 99/11).

*Slovakia:* no paramilitary forces.

*Sweden:* no paramilitary or security forces.

*Switzerland:* no paramilitary forces; and no internal security forces at the federal level.

### **3.4.2 General observations**

How RP 2.3.1 relates to the larger question is uncertain. This may be the reason only a few pS provided a response.

Similarly, the scope of RP 2.3.2 does not directly align with the overarching question, for it only addresses the “missions” of the armed forces. In addition, this RP is framed strangely, referring to the “foreign defence vs. internal security (assistance) missions” of armed forces. Why these are posed as contrasting elements, when the RP appears to be intended to elicit responses about both, is unclear. The way this RP is framed makes it unsurprising that pS offered little detail about how they ensure the armed forces act solely within the constitutional framework. In general, most pS instead provided a long list of responsibilities assigned to the armed forces, relating to both foreign defence and internal security missions.

In addition to the fact that there is no consistency as to the different types of security forces in pS, the formulation of RP 2.3.3, which addresses the broad and indistinct category of “paramilitary and security forces,” injects no clarity into the matter. Moreover, RP 2.3.3 refers to “internal security missions and/or international peace and constabulary missions,” contributing further to divergent responses. Ultimately, what this RP intended to draw out of pS is unclear, and this is reflected in the responses received, for pS generally discussed a variety of security forces within the national security framework, and not whether non-armed forces have a role in relation to international peace and constabulary missions. To this end, pS also failed to describe in any detail how they ensure that these forces operate within the constitutional framework.





For the most part, pS opted not to provide an answer to RP 2.3.4, a tendency which is in line with their overall reluctance to provide specific definitions of the various types of security forces within their national framework.

#### **3.4.2.1      *National and international threat assessment/information on respective adaptations to a changing international security environment (RP 2.3.1)***

Given the sensitivity of this RP, it is unsurprising that pS opted not to provide detailed responses. The RP implies inter-State elements in relation to the changing international security environment; but despite this, it is possible for pS to broadly describe the processes by which they conduct a national/international threat assessment, or how they collect and collate information for this purpose, without necessarily revealing the considerations that prompt adaptations thereafter.

#### **3.4.2.2      *Foreign defence vs. internal security (assistance) missions of the armed forces; including subsidiary policing and public order missions (RP 2.3.2)***

As can be observed, the roles and missions assigned to armed forces outside of traditional military operations relate to a wide array of contexts. Depending on the pS, armed forces may be tasked with ensuring public order or engaging in rescue missions within the national security framework, providing general support to national police forces, or contributing to international peace or security operations. The tasks of armed forces can thus be divided into three broad missions: defending the sovereignty and territory of the state; providing a supporting role in the national security infrastructure; and contributing to international peace and security.

Though most pS described the types of situations that would require intervention by their armed forces, it is interesting that pS generally emphasized just one of those three broad missions and rarely discussed all three in detail. For example, even within the specific context of international obligations vis-à-vis peace and security, it is evident that some pS placed more weight on their role in maintaining and/or restoring international peace and security through their contribution of forces to international military operations, while others focused less on this type of mission and often mentioned the provision of humanitarian aid in passing. Further, while almost all pS mentioned the role of the armed forces in protecting state sovereignty, some went into great detail as far as the protection of state borders and territorial integrity. Similarly, while most pS discussed situations wherein the armed forces are called upon to assist domestic security forces, such as in the event of a natural disaster, some offered significant detail in describing when assistance from the armed forces may be requested and the process within which this occurs.

Few pS discussed disciplinary and/or accountability measures that exist for the armed forces, though it is possible they addressed this issue in greater detail under the purview of section 4, on





the implementation of other political norms, principles, decisions, and international humanitarian law.

**3.4.2.3 Additional information on the status and missions of paramilitary and security forces and their respective assignment to internal security missions and/or international peace and constabulary missions (RP 2.3.3)**

The overarching challenge in delineating the scope of this RP is the lack of a common understanding of the type of forces that constitute “paramilitary and security forces.” Due to this incoherence, the responses that fell within the purview of this RP generally referred to forces that were not the armed forces.

These responses clearly illustrate the wide variety of internal security forces that exist within the national security infrastructures of pS, and that the responsibilities with which they are tasked are broad. Given that these internal security forces fall under a range of ministries, they are subject to very different oversight and accountability procedures.

Most responses to this RP discussed “internal security missions” of non-military forces, such as border guard or police. However, what is meant by “international peace and constabulary missions,” is rather ambiguous, particularly as it relates to non-military forces. To that end, there was little discussion of the decision-making processes that precede the deployment of security forces abroad, or of relevant constitutional provisions and/or legislative acts.

**3.4.2.4 Specific information on paramilitary and/or security forces; or explanation why precisely you don’t maintain such forces; or: information on how you otherwise define these forces according to the tradition of your national security framework (RP 2.3.4)**

For the purposes of this RP, only one pS provided reasons as to why they do not maintain paramilitary and/or security forces or put forth a definition of these forces. Other pS simply stated that they lack such forces but offered no further explanation. This may mean that pS which did not explicitly state they have no paramilitary and/or internal security forces do indeed have such forces – though it is important to note that some pS consider the police or border guards, among others, to be internal security forces.





### 3.4.3 In Focus: Poland

Poland's response to Q 2.3 underwent major revisions between the years 2010 and 2014, but has since remained the same through to 2018. In 2010, Poland discussed the role and competencies of the Armed Forces and the Minister of National Defence, as well as the scope of "national defence." In 2014 and 2018, Poland updated their response and focused instead on the role and mission of the Armed Forces, as well as of the Border Guard. Poland addressed some of the RPs, such as by referencing international missions as part of NATO, EU, and UN operations, though it did not provide specific information on paramilitary and/or security forces – a common tendency in most reports of p5.

**Table 4: Poland's responses to Question 2.3 in 2010, 2014, and 2018 (full text)**

2010 (267 words)	2014 (481 words)	2018 (479 words)
<p>Pursuant to art. 26 of the Constitution, the Armed Forces of the Republic of Poland safeguard national independence and territorial integrity. The forces are subject to civilian, democratic control. Meanwhile, the Strategy of National Security highlights the crucial role of special services in the protection of external and internal security, also underlining the need for their effective civilian, democratic control. The President is the Supreme Commander of the Armed Forces of the RP. In peacetime — in accordance with art. 134 paragraphs 1 and 2 — he exercises that authority through the Minister of National Defence, who is the chief organ of state administration with regard to national defence.</p> <p>Pursuant to art. 19 paragraphs 1 and 2 of the Act on the sections of government administration of September 4 1997, in peacetime the section of "national defence" encompasses matters pertaining to national defence and the Armed Forces, and also to the participation of the Republic of Poland in military undertakings of international organizations connected with the fulfilment of military obligations stemming from international agreements.</p> <p>In accordance with art. 5 paragraphs 1 and 7 of the Act on the Council of Ministers of August 8 1996, the Prime Minister may authorize a cabinet minister to act within a specified scope of issues, and he may also rule on the scope of competences of ministers in the event of a competence dispute between them.</p> <p>The terms of reference of the Minister of National Defence are detailed in the Regulation of the Council of Ministers of July 9 1996 concerning the precise scope of competencies of the Minister of National Defence.</p>	<p>The task of the Polish Armed Forces is:</p> <ul style="list-style-type: none"> <li>– ensuring the defence of the state and opposing aggression;</li> <li>– participation in the process of stabilization of the international situation and in crisis response and humanitarian operations;</li> <li>– supporting homeland security and providing aid to the public.</li> </ul> <p>To ensure the ability of the state to defend itself and resist aggression within the framework of the allied commitments, the Polish Armed Forces maintain their readiness to carry out the tasks related to the defence and protection of the inviolability of the borders of the Republic of Poland, by participating in anti-terrorist operations in the country and abroad, by participating in solving local or regional armed conflicts within the NATO's area of responsibility or outside it, by participating in defence operations outside the country according to the alliance commitments, by conducting a strategic defence operation in Poland.</p> <p>The co-participation in the stabilization of the international situation and in crisis response and humanitarian operations requires the Polish Armed Forces to maintain the strength and ability to: participate in peacekeeping and crisis response operations led by the NATO, the EU, the UN and other operations resulting from international agreements; participate in humanitarian operations conducted by international organizations, governments and others; enable military cooperation in the development and application of confidence and security building measures.</p> <p>The head of the Polish Armed Forces is the President. In times of peace he exercises authority over the Armed Forces through the Minister of National Defence, who, pursuant to the Article 134 (1) and (2) of the Polish Constitution, is the supreme body of state administration in the field of defence. Consent to the use of military force in the country and abroad is given by the President of the Republic of Poland, at the request of the Council of Ministers. The scope of activities of the Minister of National Defence is determined by the Council of Ministers Ordinance of July 9, 1996 on the detailed scope of activities of the Minister of National Defence.</p> <p><i>The Border Guard</i></p> <p>The Border Guard is responsible for protecting the state border on land and at sea and border traffic control, as a separate, unitary, uniformed and armed police-type service. Under the Act of October 12, 1990 on the Border Guard, the following tasks of formation have been defined and performed mainly:</p> <ul style="list-style-type: none"> <li>– state border protection,</li> <li>– fighting border crime and prosecuting perpetrators,</li> <li>– organisation and execution of border traffic control,</li> <li>– fight against illegal migration</li> <li>– execution of international agreements regarding legal relations on the state border,</li> <li>– supervision of the exploitation of Polish maritime areas and the obeying of regulations valid in these areas by ships,</li> <li>– providing law and order within the border crossing as well as in the border zone,</li> <li>– preventing transportation of drugs, psychotropic and chemical substances, harmful wastes, ammunition and explosives without proper permit required by separate regulations.</li> </ul>	







## 4. Concluding Observations

This study drew directly on the responses submitted by pS as part of the annual information exchange on the *1994 Code of Conduct on Politico-Military Aspects of Security* (DOC.FSC/1/95, 3 December 1994). It is organized in line with the *2009 Questionnaire* (FSC.DEC/2/09, 1 April 2009) and the *2010 Reference Guide* (FSC.DEL/142/10, 2 November 2010), and has focused on examining the responses to intra-State elements that relate to national planning and decision-making processes, as well as to the existing structures and processes related to national security forces. By comparing the reports submitted by pS pursuant to the 2018 information exchange, this study produced general observations and provided specific insights regarding the landscape of this reporting by pS, and in particular, identified the issues pS considered relevant and/or important to include in their reports.

This study has demonstrated that there is little agreement between pS in how they define and categorize the **different types of security forces** that exist within their national security frameworks. Generally, pS discuss the roles, missions, and control mechanisms of the armed forces and/or military in a coherent manner, but oversight and accountability mechanisms within this context often remain vague and abstract. It is when pS are tasked with describing the roles and responsibilities of “internal security forces” that the structure of their national security frameworks becomes less clear-cut, particularly as internal security forces can take on many forms, be designated by a variety of names, and fall under the purview of different ministries – and may be tasked with overlapping responsibilities. This is particularly evident when it comes to security forces such as the police, customs, or gendarmerie, which may support each other in conducting their operations. In addition, this study reveals that there is no agreement among pS on the scope of what constitutes “paramilitary forces.” Some pS declared unambiguously that no paramilitary (and/or internal security) forces exist in their national security infrastructures. Others did not respond as clearly; and this may be due to the fact that those pS either have such forces or have defined paramilitary and/or internal security forces in such a way that they are categorized under another type of security force. Still, aside from varying definitions or categorizations of paramilitary and/or internal security forces, the responses of pS indicated that police may be empowered with a wide spectrum of tasks. While the police in some pS are charged with ordinary law enforcement powers, in others, they may be militarized and have a much broader mandate. This demands a careful examination of a variety of considerations prior to conducting a side-by-side comparison of forces that may, for example, be referred to collectively as “police forces.” To this end, self-categorization by pS of the different types of forces discussed in their reports is indicative of the underlying mandate of the security forces under discussion, and is thus illustrative of the importance of allowing sufficient space for pS to delineate their own categories of the forces within their national security framework.

At the same time, a shared understanding among pS on **conceptual elements** such as democratic oversight, accountability, civilian control, and public scrutiny is also lacking. While some of these





issues share some overlapping considerations, this study has made it clear that many pS do not differentiate between some of the more abstract of these concepts, so that they are often conflated in discussion. However, it is evident that some effort has been made by pS to discuss processes and procedures from different angles throughout their reports.

Moreover, it must be noted that a large majority of these reports were submitted by pS in English, with the exception of a handful submitted in French, German, Italian, Russian, and Spanish. Given that the official language of many pS is not English, it must be kept in mind that some pS remain at an advantage, especially in terms of definitional clarity, by submitting reports in their native language.

It is also necessary to underscore that a lack of coherence among pS as far as how different concepts in their reports are perceived and framed is driven by a general lack of consistency in the **RPs identified** in the *2010 Reference Guide*. The Guide itself discusses these concepts without clarifying distinctions, and the fact that no explanation is given as to why, for example, responses about “civilian control” are requested in relation to some security forces but not others, understandably adds layers of confusion. The Guide also fails to provide any explanation regarding the nuanced distinction between “democratic oversight” and “democratic accountability.” Since the responses of pS are a reflection of the Guide, it must be a document that lends to increased clarity vis-à-vis the issues about which it hopes to gain greater insight. It is also clear that some RPs do not appropriately relate to the overarching question under consideration. As mentioned in the general observations above, in relation to each question, some pS tended to address RPs directly and lose sight of the larger question being asked. While the RPs may provide an opportunity to discuss the issue at hand with greater specificity, the lack of connectivity between the RPs and the associated question does not contribute to an overall coherence in the responses received. On the other hand, some pS did not address each RPs as indicated in the Guide, instead providing answers in response to the overarching question. This approach gives pS the option to provide answers to certain RPs, while opting not to provide them to others. While this creates an imbalance in the number of responses that relate to specific RPs, it allows for an insight into the RPs that pS prefer to provide answers for, and which they prefer to avoid. As noted in the methodological considerations, this study focused more on examining the responses received in relation to each RP, and less on which pS did not submit a response to the RP under discussion. Nonetheless, it was fairly evident that some RPs were more popular with pS than others. It remains important to emphasize, too, that the 1994 Code of Conduct is politically-binding; the annual information pursuant to the *2009 Questionnaire* was adopted by consensus by the FSC; and reference to the RPs in the *2010 Reference Guide* a voluntary undertaking. This hierarchy of documents undoubtedly informs the structure adopted by pS in their reports.

One gaping omission on the part of most pS was the inclusion of any extended discussion of the ways different institutions involved in **national planning and decision making** for domestic security infrastructures inter-relate. Many pS provided long lists of the defence-related responsibilities tasked to each institution within their government, but very few traced the process by which decisions are made or legislation is enacted. At the same time, only several pS





elaborated on the considerations and issues that serve as the impetus for subsequent decisions; that is, the internal and/or external factors that inform decisions that relate to the development of, or changes to, existing defence policy, military posture, defence expenditure, etc. While acknowledging that these considerations are inherently politically sensitive, outlining these processes without describing specific issues would lend at least to an abstract discussion of existing procedures in place in pS. Moreover, limited descriptions of the interactions between different institutions contribute to an overall absence of discussion of the control, oversight, and accountability mechanisms in place for the defence sector. This lack of emphasis on how different institutions interact is further compounded by the fact that many different forms of governance exist among pS, a definitive factor that is not explicitly addressed in this study. It was therefore challenging to draw out the strands of commonalities in the institutions, procedures, and practices of pS. Many pS also had the tendency to quote directly from relevant constitutional provisions or legislative acts in response to questions about certain security forces or defence-related processes, without adequately situating these instruments within a broader context or providing accompanying descriptions. By describing only these existing constitutional parameters, the extent to which provisions on paper translate into actual procedures and practices in pS remain unknown.

The purpose of this study is to provide – to the extent possible – a qualitative analysis of the responses of pS vis-à-vis the *2009 Questionnaire* and *2010 Reference Guide*. It has demonstrated that the landscape of these responses is vast, with pS picking and choosing the questions and RPs to which they responded, as well as the extent to which they did so comprehensively. Consequently, this study has served as a useful exercise in identifying the elements within the national security infrastructures of pS where common understandings are absent. These are valuable findings within the broader effort to improve reporting pursuant to the information exchange, so as to contribute towards confidence-building within the OSCE. Ultimately, this study has helped to illustrate how pS view themselves and the state of their national security infrastructure; and as a result, demonstrates the instrumental role these reports play in creating the image that pS wish to project of themselves to the outside world.





## Annex: Going Forward

A number of opportunities to further develop and build upon the current information exchange and annual reporting framework were presented and discussed at the 912th Plenary Meeting of the FSC on 3 April 2019, as well as during the Eighth Annual Discussion on the Implementation of the Code of Conduct on Politico-Military Aspects of Security that took place on 12 June 2019. The following served as a starting point for discussion during these meetings. While some of the points included below have already been suggested in past years by pS or external experts, they are included again because they have not been implemented to date. The 2019 ‘Double Anniversary’ of the Code and the information exchange could offer another opportunity to consider moving forward on some of the issues introduced below.

### 1. Revisit the Format of the Annual Reports

- Responses could be structured in line with each reference point (RP) contained in the *2010 Reference Guide* so as to provide targeted answers in one section without the need to cross-reference answers to other questions; this would be further aided by a more organized systematization of RPs.
- Changes made and new sections added to the previous year’s report could be highlighted (as suggested in FSC Decision No. 2/09);<sup>101</sup> this would help identify amendments and contribute towards greater transparency.
- By submitting a list of updates and changes instead of full annual report, this may not only lighten the workload for the pS, but also make it easier for others to follow any new developments that emerge in a reporting year.
- If there have been no developments in relation to certain Questions, the reports could update only those Questions that need updating and refer to past reports if no changes are made to a specific Question.

### 2. Re-evaluate the Scope of the Reference Guide

- Existing RPs in the *2010 Reference Guide* should be reviewed and re-systematized to ensure they directly relate to the overarching question and/or a specific provision in the Code.
- Ensuring that there are no overlaps and/or gaps between the RPs, as well as between the Guide and the Questionnaire, would lead to greater coherence in overall reporting.

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<sup>101</sup> “Encourages participating States to highlight major changes or updates in their replies to the questionnaire, as appropriate”.





- Given the range of ambiguous terminology introduced in the RPs (even those listed under the same question often use divergent vocabulary), the Guide could provide clear definitions of abstract considerations, or identify the issues that relate directly to specific types of security forces.
- Vague terminology and the intention of RPs could be further clarified by providing examples of best practice, which would delineate the responses that fall within its scope.

### 3. Restructure the Questionnaire

- Question II.1.2 could be moved to Section I; as the Question “*How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?*” relates more closely to inter-State issues.
- As pS generally provide one response to both Questions II.2.1 and II.2.2 together, or cross-reference one in the other, these two questions could be merged, as the scope of the latter is not clearly distinct from the former.
- Adding references to all corresponding paragraphs of the Code would enhance transparency in reporting, for the Code is the politically-binding framework to which the Questionnaire and Guide are supporting documents.
- To encourage more consistency in reporting, the Questionnaire could be reworked to align more closely with the Code, which would help to address the analytical gap between these reference documents.

### 4. Conduct Regular Reviews

- Publishing an annual qualitative report to supplement the existing quantitative reports on the responses received would help to identify any trends in reporting, as well as highlight any gaps and issues that should be addressed.
- By implementing a mechanism of periodic review based, for example, on a combination of self-reporting, fact-finding, and political dialogue, the implementation of the Code could be continuously improved and built upon to make the most out of the existing confidence-building framework.
- A series of in-depth case studies on the implementation of the Code could examine each question and the related RPs in greater detail, or could be specific to a number of pS that volunteer for such an assessment, and thereby cast a much wider net than the current report; these series would build upon the current findings and generate a broader and cohesive set of options for going forward.
- Independent expert evaluations could identify practical and technical areas for improving reporting, as well as provide further suggestions.

