

PARLIAMENTARY OVERSIGHT OF INTERNATIONAL OPERATIONS



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NATO PARLIAMENTARY ASSEMBLY
ASSEMBLEE PARLEMENTAIRE DE L'OTAN

DCAF Geneva Centre
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Governance



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About NATO Parliamentary Assembly

Since its creation in 1955, the NATO Parliamentary Assembly has provided a unique specialised forum for members of parliament from across the Atlantic Alliance to discuss and influence decisions on Alliance security. Through its work and activities, the Assembly facilitates parliamentary awareness and understanding of the key issues affecting the security of the Euro-Atlantic area, and supports national parliamentary oversight over defence and security. Crucially, it helps to strengthen the transatlantic relationship and the values which underpin the Alliance. The Assembly is institutionally separate from NATO, but serves as an essential link between NATO and the parliaments of the NATO nations. It provides greater transparency of NATO policies, and fosters better understanding of the Alliance's objectives and missions among legislators and citizens of the Alliance.

Since the end of the Cold War, the Assembly has assumed a new role by integrating into its work parliamentarians from countries seeking a closer association with NATO. Through this form of parliamentary diplomacy, the Assembly contributes to mutual understanding and to the strengthening of parliamentary democracy throughout the Euro-Atlantic region and beyond, thereby complementing and reinforcing NATO's own programme of partnership and cooperation.



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Foreword

The NATO Parliamentary Assembly (NATO PA) is proud to continue our over two decades of cooperation with the Swiss government and the Geneva Centre for Security Sector Governance (DCAF). This study of parliamentary oversight and control over military deployments abroad and parliaments' capacity to supervise international military operations is again based in part on a survey of national delegations to the NATO PA.

The personnel of our armed forces have bravely sworn to risk their lives at the service of their nations when called for. The decision to send military personnel abroad remains one of the most profound decisions governments and parliaments must make. That is why this study is an important contribution in the field of defence and security governance. The chapter on the evolution of NATO operations provides valuable context. I thank everyone who has contributed.

I believe this study's findings will assist parliamentary committees, individual parliamentarians and supporting staff from NATO and partner countries in better understanding the roles and responsibilities, exploring the range of different models as well as building on the overarching principles and good practice identified in this study. It is my hope it can inspire all stakeholders in reinforcing oversight and control mechanisms as well as parliamentary capacity.

The NATO PA stands ready to further support these efforts because NATO is not just a military alliance. It is an alliance of democracies defined by what it stands for: an unwavering commitment to shared values and principles, most importantly democracy, individual liberty and the rule of law. And parliamentary oversight of the defence and security sector is an essential part of these values and principles.

Ruxandra Popa

Secretary General

NATO Parliamentary Assembly



Preface

It is my great pleasure to introduce this publication, which is the result of a joint effort between the Geneva Center for Security Sector Governance (DCAF) and the NATO Parliamentary Assembly. The publication provides an invaluable contribution to the field of parliamentary oversight of international operations. It both fills a crucial gap in the literature and brings together a range of perspectives from different NATO countries.

This joint study examines the evolution of NATO operations and explains their changes and crucial challenges through the formation of Strategic Concepts. It explores how NATO operations have adapted to current geopolitical realities. It includes a comparative analysis of existing practices in NATO member states in international operations oversight, showing how efforts are needed to tailor the legislative tools upon which such oversight is conducted.

The publication emphasizes the crucial role that parliaments play in ensuring that international deployments are appropriately overseen. It highlights the need for parliaments to be informed, engaged and empowered in order to effectively carry out their oversight functions. It also highlights the importance of cooperation between parliaments and other stakeholders, not only national governments, but also civil society and international organizations.

I am particularly pleased to note that this publication is the result of a successful collaborative effort between the NATO Parliamentary Assembly and DCAF. I would like to thank all those involved in this initiative for their hard work and dedication. I am confident that this book will serve as a valuable resource for all those interested in this important topic.

Darko Stancic

Head of Europe and Central Asia Division
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Executive summary

International operations involve a wide range of activities, from military interventions to humanitarian aid. It is essential that these operations are conducted in accordance with the law and in the best interest of the people affected by them. Parliamentary oversight ensures that political decisions taken in relation to international operations are transparent and that they can be held to account by the public. Parliamentary oversight also helps to ensure that international operations are conducted within the framework of international law and that they are consistent with the country's domestic laws. It provides, too, an important check on the executive branch, helping to ensure that international operations are conducted in a responsible manner and with the appropriate level of oversight.

For more than two decades, DCAF has been a leader in security sector governance and has partnered with the NATO PA for joint research projects. DCAF's 'Oversight and Guidance' updates provide information on parliamentary control of the security sector. Additionally, DCAF has developed toolkits for monitoring the intelligence sector, the defense industry, and parliamentary oversight of international operations.

Based on open research, extensive interviews with lawmakers and the results of surveys, DCAF subject-matter experts have contributed to this study. The first chapter provides a comparative overview of practices in NATO member (and other) states as regards parliamentary oversight of international operations. Based on the findings of surveys disseminated to NATO PA delegations in the summer of 2022 and analysis of other sources, the authors analyze the scope of parliamentary oversight in international operations. The examination is structured into distinct sections, each delving into specific aspects of parliamentary involvement, ranging from legislative and communication-based powers to budgetary control and oversight throughout ongoing operations. It explores how nations approach legislative powers, encompassing the *ex-ante* veto requirement, while the subsequent part examines communication-based powers such as notification and consultation requirements. It investigates budgetary powers and scrutinizes control powers, specifically focusing on oversight during the course of ongoing military operations. A dedicated section outlines the challenges faced by parliaments or relevant parliamentary committees when exercising their powers, providing an insightful exploration of the complexities inherent in parliamentary oversight.

Recommendations encapsulate essential good practices identified in navigating parliamentary powers over foreign military deployment. These recommendations are structured chronologically, spanning the stages of deployment — prior to operations, during ongoing activities, and post-operational oversight. The study emphasizes that legislation should be meticulously designed to allow for flexibility in responding to diverse military operations and adapting to evolving security challenges. Simultaneously, it underscores the importance of maintaining a spectrum of oversight instruments and procedures to ensure that military operations are executed responsibly and

align with the best interests of citizens. This holistic approach ensures that parliamentary powers are agile, responsive, and aligned with contemporary security demands while upholding robust oversight mechanisms to safeguard the public interest.

The second chapter explores the evolution of NATO operations. It provides a comprehensive analysis of the evolution of NATO operations, divided into four parts. The first part examines the origins of NATO and its first non-classified Strategic Concept, as well as its first operational engagements in the Western Balkans. The second part looks at the 1999 update to the Strategic Concept and the subsequent expansion of NATO operations. The third part focuses on the new Strategic Concepts adopted in 2010 and 2022, and explores the factors which have affected operations in light of new security challenges. The fourth part assesses the intensity of operations. The chapter does not cover all aspects of NATO operations and security challenges. Rather it provides a clear demonstration of NATO's capability to adapt to emerging threats and security challenges, demonstrating the evolutionary nature of its operational engagements.

This publication seeks to provide support and guidance to all those conducting research in the field of international operations and those responsible for their oversight, be they parliamentarians, staffers, researchers, or civil-society groups. The ultimate aim of this study is to ensure that the activities of democratic states, including military agencies, are open to parliamentary scrutiny and fully adhere to the principles of the rule of law and respect for human rights. DCAF and NATO PA hope that this study will be a useful tool in advancing oversight for international operations and in heightening public confidence in the democratic process.

Parliamentary Approval and the Oversight of Military Operations Abroad: Comparative Practice

Introduction

NATO conducts military operations across a range of different geographical regions, and national parliaments are key in overseeing these activities. Meaningful oversight as iterated by Auerswald, Lagassé and Saideman involves the *ability to oversee*, the *willingness to exercise* those abilities to actually gather relevant information, and the power to use that information in a way that affects the military, the executive, or both.¹ The leading theorists of parliamentary oversight Hans Born and Heiner Hanggi state that parliamentary accountability regarding foreign and security affairs tends to be weak in most political systems.² In the international arena, parliamentary accountability remains conspicuously absent in situations involving the use of force under the auspices of international organizations and *ad hoc* coalitions³. These same theorists have claimed that various nations adopt distinct approaches to parliamentary accountability, meaning that there is no universally defined ‘baseline standard.’ This diversity contributes to a cumulative ‘democratic deficit’ at the national level. Though there are, it is true, an increasing number of cases where parliaments effectively ensure government responsibility for deploying and overseeing national armed forces abroad.⁴

Therefore, the rising instances of NATO parliaments successfully holding governments accountable for the deployment and supervision of national armed forces abroad are of particular interest. Consequently, this article delves into the experiences of NATO member states, aiming to illustrate the baseline standards that Allied nations apply in regards to parliamentary oversight and control over military deployments abroad and their capacity to supervise international military operations. This analysis explores the manner in which national legal systems address parliamentary involvement in decision-making concerning the deployment of armed forces beyond national

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- 1 David Auerswald, Philippe Lagassé and Stephen M Saideman, ‘Some Assembly Required: Explaining Variations in Legislative Oversight over the Armed Forces’, *Foreign Policy Analysis* 19 (2023), available at: <https://academic.oup.com/fpa/article/19/1/orac034/6969126> [accessed 3 Dec 2023]
 - 2 H. Born and H. Hänggi, *The Use of Force under International Auspices: Strengthening Parliamentary Accountability* (Geneva, Policy Department External Policies, Policy Paper No 7, 2005), https://www.dcaf.ch/sites/default/files/publications/documents/pp07_use-of-force.pdf [accessed 3 Dec 2023]
 - 3 *Ibid.*
 - 4 *Ibid.* Parliamentary oversight appears weakest as regards foreign and security policy – functions which even in the most democratic states traditionally belong to the executive. This creates the first component in the double, national and international, democratic deficit in the conduct of security policy. The authors argue that multinational PSOs are no exception. Parliamentary accountability for the use of international force is problematic at both the international and national levels – hence the expression ‘double democratic deficit’.

borders. It also covers various questions of oversight related to the execution of operations and the post-operation phase.

The subject of parliamentary oversight has been examined and discussed by numerous authors in prior studies. Wolfgang Wagner, Dirk Peters and Cosima Glahn stated that the research focus on parliamentary control over security policy evolved gradually, gaining prominence after the Cold War; the growing frequency of multilateral military operations has raised questions about democratic legitimacy and the mechanisms for overseeing such actions. Then, the post-Cold War era witnessed a significant emphasis on reforming civil-military relations in previously authoritarian states, underscoring the importance of oversight.⁵ Several initiatives have spearheaded comparative research on parliamentary control capabilities. Sandra Dieterich, Hartwig Hummel and Stefan Marschall conducted a comprehensive survey of the war powers vested in the parliaments of EU member states in 2003.⁶ The study subsequently applied these findings to elucidate how these countries approached the Iraq war. Hans Born, Alex Dowling, Teodora Fuior and Suzana Gavrilesescu scrutinized the participation of EU member state parliaments in overseeing European security and defense policy operations, with a specific focus on two military and two civilian missions.⁷ In another analysis, Hans Born and Heinrich Hanggi concluded that parliamentary accountability for the use of international force is problematic at both the international and national levels and wrote of a 'double democratic deficit'. Their paper analyses the problems and offers recommendations for how this deficit could be reduced⁸. More recently, Daniel Schade has explored how the internationalisation of security policy has altered parliamentary constraints on executive decision-making. His article examines how the policy's location at the intersection of decision-making on security and EU matters creates new opportunities for member state parliaments to scrutinise it. Yet, as an analysis of three CSDP military operations shows, these opportunities do not always translate into increased scrutiny practice. They vary in line with factors such as national troop contributions, distinct political traditions and an operation's salience.⁹ Philippe Lagassé and Patrick Mello have argued that there is a need to question whether parliamentary involvement actually leads to the intended

5 W. Wagner, D. Peters, and C. Glahn, *Parliamentary war powers around the world, 1989-2004: A new dataset*, (Geneva: Geneva Centre for DCAF, Occasional Paper 22, 2010), https://www.dcaf.ch/sites/default/files/publications/documents/OP_22.pdf [accessed 3 Dec 2023].

6 S. Dieterich, H. Hummel, and S. Marschall, *Strengthening Parliamentary 'War Powers' in Europe: Lessons from 25 National Parliaments* (Geneva, Policy Paper - No 27. Geneva Centre for DCAF, 2010) .<https://www.dcaf.ch/sites/default/files/publications/documents/PP27.pdf> [accessed 3 Dec 2023].

7 H. Born, A. Dowling, T. Fuior, and S. Gavrilesescu, *Parliamentary Oversight of Civilian and Military ESDP Missions: The European and National Levels* (Geneva, Policy Department External Policies, Policy Paper, 2007), [https://www.europarl.europa.eu/thinktank/en/document/EXPO-SEDE_ET\(2007\)348610](https://www.europarl.europa.eu/thinktank/en/document/EXPO-SEDE_ET(2007)348610) [accessed 3 Dec].

8 H. Born and H. Hänggi, *The Use of Force under International Auspices: Strengthening Parliamentary Accountability* (Geneva, Policy Department External Policies, Policy Paper No 7, 2005), https://www.dcaf.ch/sites/default/files/publications/documents/pp07_use-of-force.pdf [accessed 3 Dec 2023]

9 D. Schade, 'Limiting or liberating? The influence of parliaments on military deployments in multinational settings', *The British Journal of Politics and International Relations* 20 (2018), <https://doi.org/10.1177/1369148117746918> [accessed 3 Dec 2023].

effects of increased democratic deliberation and responsiveness. They compared the unintended consequences of parliamentary votes on the use of force in the two ‘most-different cases’: Canada and Germany.¹⁰ Wolfgang Wagner studied the effect of parliamentary involvement on security policy. He asked whether democracies with a parliamentary veto power are, indeed – all other things being equal – less likely to participate in military interventions, than democracies without such a veto power. By studying patterns of participation across 25 to 35 countries in five military missions, this paper found modest evidence for this parliamentary reluctance for intervention and suggests that it depends on the character of the military mission in question. If a mission is framed as a test case of alliance solidarity, as was the case with OEF and the Iraq War, domestic institutional constraints can be trumped by alliance politics. If, however, countries enjoy more discretion in deciding on the use of force, domestic constraints such as parliamentary war powers have a tangible impact on government policy.¹¹ James Strong raised very important point in his analysis – precedents set in debates over Iraq, Libya and Syria established a new parliamentary prerogative, that British MPs must vote before military action can legitimately be launched.¹² Katrin Auel and Thomas Christiansen explored the role of national parliaments in EU matters, something that has become important in the debate over the democratic legitimacy of European Union decision-making. Strengthening parliamentary scrutiny and participation rights both at the domestic and at the European level is often seen as an effective measure to address the EU’s perceived ‘democratic deficit’ – the reason for affording them a prominent place in the newly introduced ‘Provisions on Democratic Principles’ of the Union.¹³ Philippe Lagasse analysed the British and Canadian Parliaments, neither of which have legal control over military deployment decisions. But recently both governments have held votes in their House of Commons on expeditionary missions involving combat. He found that while in the United Kingdom, this has led to a convention of legislative control of the executive’s prerogative to deploy the armed forces, in Canada the decisions did not strengthen legislative control, but rather enabled the executive.¹⁴ It is also worth noting that Tom Ruys, Luca Ferro, and Tim Haesebrouck analyzed how the recourse to force by the international military coalition fighting against the ‘Islamic State’ (IS) in Iraq and Syria seems to fit into a broader trend of increased parliamentary control over war-and-peace decisions on both sides of the Atlantic.

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- 10 P. Lagassé and P. A. Mello, ‘The unintended consequences of parliamentary involvement: Elite collusion and Afghanistan deployments’, *The British Journal of Politics and International Relations* 20 (2018), <https://doi.org/10.1177/1369148117745681> [accessed 3 Dec].
 - 11 W. Wagner, ‘Is there a parliamentary peace? Parliamentary veto power and military interventions from Kosovo to Daesh’, *British Journal of Politics and International Relations* 20 (2018), 121–134, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5836535/> [accessed 3 Dec]
 - 12 J. Strong, ‘Why Parliament Now Decides on War: Tracing the Growth of the Parliamentary Prerogative through Syria, Libya and Iraq’, *British Journal of Politics and International Relations* 17 (2014), <https://doi.org/10.1111/1467-856X.12055> [accessed 3 Dec 2023].
 - 13 K. Auel and T. Christiansen (eds.), *After Lisbon: National Parliaments in the European Union* [special issue of *West European Politics* 38] (London, Routledge: 2017, 261–281
 - 14 P. Lagassé, ‘Parliament and the War Prerogative in the United Kingdom and Canada: Explaining Variations in Institutional Change and Legislative Control’, *Parliamentary Affairs* 70 (2017), 280–300, <https://doi.org/10.1093/pa/gsw029> [accessed 3 Dec 2023].

Inasmuch as international legal arguments can and do play a role in parliamentary debates and concomitant resolutions, this trend carries the potential to contribute to the compliance pull of the *jus ad bellum*. Against this background, they explored to what extent newfound war powers on the part of national parliaments go hand in hand with recourse to international legal arguments. Their analysis engages this question through an analysis of the dialogue between the executive and legislative branches in a number of countries (in particular Belgium, the Netherlands, France, Germany, the United Kingdom, and Canada) in relation to the US-led coalition against IS.¹⁵

This study draws upon published researches and considers recent developments in parliamentary authority regarding the deployment of forces in international operations over the past decade. We go beyond previous analysis by delving into distinct facets of oversight across different operational phases. We, also, examine the specifics of national legislative frameworks that dictate parliamentary powers, thereby influencing the efficacy of parliamentary oversight. Through an exploration of diverse case studies, the research chiefly articulates best practices in defining the role of parliaments in international operations, emphasizing both aspects of control and oversight.

In terms of methodology, this study has applied the concept of parliamentary war powers, which aligns with what parliamentary studies traditionally term as ‘functions.’ As such, experts differentiate between the legislative, budgetary, control, communication, and election/dismissal powers exercised by parliaments in the context of security policy-making.¹⁶ However, for the purposes of research, the authors have adjusted the term ‘war powers’ to ‘parliamentary powers over military operations,’ as it more accurately represents the focus of the study. The latter is centered on four main functions: this study does not consider the election resources of parliaments that are primarily important in the form of dismissal powers.¹⁷ These four are:

1. Legislative powers refer to the extent to which parliaments participate in decision-making concerning the deployment and use of military force, i.e. whether and how parliaments are involved when governments decide to send troops into military action.
2. Communication-based powers, often showing up in the form of notification and consultation requirements, refer to the communication between those who decide and those who are affected by decisions. This is one of the core functions and at the same time a key power resource of parliaments, although difficult to operationalize. In early parliamentarism, debating and discussing issues of general interest perhaps constituted the most essential function of parliamentary bodies. Originally parliamentary discourse meant pondering decisions, presenting pro and con arguments to the end of finding the best solution.

15 T. Ruys, L. Ferro, T. Haesebrouck, ‘Parliamentary war powers and the role of international law in foreign troop deployment decisions: The US-led coalition against ‘Islamic State’ in Iraq and Syria’, *International Journal of Constitutional Law* 17 (2019), 118–150, <https://doi.org/10.1093/icon/moz001> [accessed 3 Dec 2023]

16 S. Dieterich, H. Hummel, S. Marschall, *Strengthening Parliamentary ‘War Powers’ in Europe: Lessons from 25 National Parliaments*, Geneva: Geneva Centre for DCAF Policy Paper 27, 2008), <https://www.dcaf.ch/sites/default/files/publications/documents/PP27.pdf> [accessed 3 Dec 2023].

17 *Ibid.*

3. Budgetary powers are actually a special case for legislative powers. In addition to co-deciding on the deployment of troops, parliaments can influence military actions by making use of their 'power of the purse.' Deploying troops is expensive, and these operating costs, if to be covered by the national budget, usually have to be approved by parliament. If parliament refuses to release the money needed for military activities, the government cannot deploy troops.
4. Control power is one of the core concepts of parliamentary democracy, being part of the complex structure of checks and balances. To monitor the activities of other institutions has become one of the most prominent parliamentary functions. The power of control/monitoring is closely connected to sanctioning powers, since control without the threat of sanctions lacks effectiveness.

The comparative analysis is based on feedback received from the parliaments of the States under analysis here in response to: a questionnaire developed on behalf of DCAF and the NATO Parliamentary Assembly; interviews with lawmakers; and extensive review of primary and secondary sources. The countries analyzed within the framework of this study include most NATO allies as well as several non-NATO countries (namely, Australia, Austria, Ireland and Sweden). Therefore, the scope of the report is comprehensive. It includes feedback from national parliaments, which is of varying scope and depth and it considers national solutions that are deeply rooted in the constitutional architecture, legal traditions, and historical experiences of the country in question.

The study is composed of six sections. The first four parts provide a comparative study of national parliamentary powers over military deployment for international operations and subsequent oversight over these operations. The four sections cover national approaches to: legislative powers (*ex-ante* veto requirement); communication-based powers (notification and consultation requirement); budgetary powers; and control powers (oversight over ongoing operations). The fifth section outlines the challenges which parliaments or respective parliamentary committees face when exercising their powers. The sixth part provides concluding remarks and reflects on the key lessons identified in this study. Recommendations outlined at the end of the study summarize key good practices, identified in approaching parliamentary powers over military deployment abroad. The recommendations follow the chronology of deployment (prior to operation, during operations and post-operational oversight).

It concludes that the legislation should be designed for flexibility in responding to different types of military operations and evolving security challenges, while maintaining various oversight instruments and procedures. In this way parliaments can ensure that military operations are carried out responsibly and in the best interests of the citizens.

1. Legislative powers: Ex Ante Veto Power

The most potent mechanism available to legislative bodies over the deployment of military forces abroad is the mandate for parliamentary approval before deployment, commonly referred to as the *ex ante* veto power. This authority is usually codified in a nation's Constitution, Defence Act, or dedicated legislation crafted for this purpose. The comprehensiveness and specificity with which the legal framework delineates the procedures for parliamentary authorization change significantly from country to country. This can include the following considerations:

- The types of missions which parliaments may authorize;
- The modalities of the decision-making process. These include: who submits the proposal to parliament and what information it must contain; the nature of the parliamentary decision; which parliamentary body votes on deployment; what voting threshold is required for authorization; can the parliament subsequently revoke its decision or override governmental decision over deployment; what time-considerations apply to parliamentary authorization; role of judiciary in the decision-making process;
- The types of missions which require parliamentary approval and those which are excluded from it. This includes their temporal and material scope, significance, and implications (e.g., becoming party to an armed conflict);
- Approach to international operations which are urgent or which respond to an emergency;
- Requirements for the frequency of authorization and renewed authorization in cases of change of mandate or the prolongation of an international operation.

Most Euro-Atlantic nations have established a normative practice that necessitates obtaining parliamentary approval for engaging in international missions. This procedural requirement underscores a commitment to democratic principles. This ensures that decisions involving the deployment of military forces abroad are subject to scrutiny, debate, and endorsement by elected representatives. The parliamentary approval process serves as a vital mechanism in upholding transparency, accountability, and public discourse on matters of national security and international engagement. The specifics of how parliamentary approval is sought and granted vary from country to country, reflecting the diverse legal and constitutional frameworks within the Euro-Atlantic region. Most countries covered in this study require *ex ante* parliamentary authorization: for instance, Austria, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, Montenegro, North Macedonia, Romania, Slovakia, Spain, Sweden, Türkiye and the United States. It should be noted that countries which do not require parliamentary authorization for military deployment often provide for the notification or consultation requirements, which will be discussed in the following section. National practice where there is no requirement or convention for engagement between executive and legislature on matters of international deployment are rare and this is true of none of the countries in this study. The remainder of this section will explore various criteria for parliamentary authorization and modalities. In cases when particular types of missions are exempt from parliamentary approval, notification or consultation is generally required instead. Numerous countries examined in this study adopt different approaches, either exempting specific operations from parliamentary approval or, conversely, mandating parliamentary authorization

under specific circumstances. Below the diverse factors that influence how nations navigate the parliamentary approval process for international deployment are examined.

1.1 Permissible types of deployment

A number of countries specify in their legislation permissible grounds for deployment. Generally, this depends on which types of operations are permissible under international law. Several European legal systems stipulate explicitly that military operations must be carried out in accordance with international law: e.g., Croatia, Estonia, Hungary, and Italy. They allow parliaments to consider compliance with the relevant norms of international law.¹⁸ As a result, states generally list the types of operations for which armed forces can be deployed and sometimes it is complemented by the legal justification which must be provided by the government to parliament when requesting authorization for any deployment. In *Italy*, for example, the government shall provide information to parliament before military deployment on the legality (its compatibility with international law) of the military operation (see also Austria). In *Germany*, respecting the norms of international law is constitutionally relevant¹⁹ and the Federal Government in its application to the Bundestag must among other matters provide information about the legal basis of the assignment. In principle, parliaments could reject participation in an international operation on the grounds that it is contrary to international norms. However, they are not expected to conduct a legal analysis as this would be the prerogative of the judiciary.

A rather small number of states require parliamentary authorization for all international deployment of their armed forces. This includes Austria, Bulgaria, Denmark, Italy, Montenegro and North Macedonia.

18 For example, the Croatian Law on Defence includes several references that the international deployment of armed forces must be in line with international law and international treaties and that the parliamentary decision to send requests for defence assistance to allied countries is to be made in accordance with concluded international agreements. Article 45 of Hungarian Constitution provides that National Assembly shall have the right to direct the Hungarian Defence Forces unless otherwise provided in an international treaty. In Lithuania, the preamble of the Law on International Operations stipulates that the Seimas pursues to safeguard, on the basis of the universally recognised principles and norms of international law, national security and independence, as well as the basic rights, freedoms and welfare of the citizens, and to contribute to the creation of an international order based on law and justice.

19 For more on the German case see Anne Peters, 'Between military deployment and democracy: use of force under the German constitution', *Journal on the Use of Force and International Law* 5 (2018), 246-294.

In *Bulgaria*, the National Assembly shall approve any deployment and use of Bulgarian armed forces outside the country's borders, and the deployment of foreign troops on the territory of the country or their crossing into that territory.²⁰

In *North Macedonia*, the deployment of officers outside the territory of the republic for participation in international operations shall be adopted by the Assembly.²¹

When specific types of missions are exhaustively listed, the mandate of parliaments is limited as it can only authorize those permissible types of operations. For example, in *Croatia* parliamentary authorization is required for: operations of the armed forces across the border;²² assistance to allied countries in the event of an armed attack on one or more of them in accordance with the provisions of Article 5 of the North Atlantic Treaty;²³ defence assistance to the member states of the European Union;²⁴ helping member states of the European Union in cases where they are exposed to a terrorist attack and disasters caused by natural or human activity;²⁵ and in peace support operations, crisis response operations, humanitarian operations and other activities abroad.²⁶ *Austrian* Constitutional Law regulating military deployments explicitly lists different types of deployments. Units and individuals may be deployed to participate in peacekeeping operations, humanitarian aid and disaster relief operations, search and rescue operations, or exercises and training.²⁷ In *Sweden*, the government may send armed forces to other countries or otherwise deploy such forces in order to fulfil an international obligation approved by the parliament.²⁸ Two commissions which revised the constitutional framework clarified that the fulfilment of an international obligation should refer to the sort of obligations which may follow from UN Charter Article 43.²⁹ Swedish armed forces may also be sent to other countries or be deployed if: 1) it is

20 Article 84(11) of Bulgarian Constitution

21 Article 41(1) of the Law on Defense ('Official Gazette of the Republic of Macedonia', No. 42/01, 5/03, 58/06, 110/08, 51/11, 151/11, 215/15 and 'Official Gazette of RNM', No. 42/20)

22 Law on Defence (OG 073/2013), available at: https://digarhiv.gov.hr/arhiva/263/104255/narodne-novine.nn.hr/clanci/sluzbeni/2013_06_73_1452.html, Article 49 [accessed 3 Dec 2023].

23 *Ibid.*, Article 51

24 *Ibid.*, Article 52

25 *Ibid.*, Article 53

26 *Ibid.*, Article 54

27 Bundesverfassungsgesetz über Kooperation und Solidarität bei der Entsendung von Einheiten und Einzelpersonen in das Ausland (KSE-BVG), 21 April 1997, available at https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgbIPdf&Dokumentnummer=1997_38_1 [accessed 3 Dec 2023].

28 The Instrument of Government (adopted 1 January 1975; ICL Document Status 1 January 2015), Available at: https://www.servat.unibe.ch/icl/sw00000_.html, Chapter 15 Article 16 [accessed 3 Dec].

29 The response provided from Sweden, on file with the author.

permitted by an act of law setting out the conditions for such actions; or 2) the Swedish parliament permits such actions in a special case.³⁰

1.2 Decision-making process

In countries with *ex ante* parliamentary authorization the decision-making process for approval of international deployment takes on radically different modalities and levels of detail. These modalities are important to note as they carry many implications for parliamentary control and reveal other the considerations which parliaments should take into account during this process. Proposals on deployment for international operation are generally submitted to the parliament by the government, often with the consent of the president. A standard provision as outlined above can be found for example, in the case of *Croatia*, where in all cases the decision is made by the Croatian Parliament on the proposal of the Government and with the prior consent of the President of the Republic.³¹ While such generic provisions are not problematic *per se*, they may leave the decision-making process unclear. The different specificities of the decision-making process are listed below:

- **Which body develops the proposal submitted to the parliament?** In Slovakia, the proposal for deployment is submitted by the Minister of Defence to the government and, if applicable, subsequently to the National Council.³² According to the *Danish* Constitutional Act 'except for the purposes of defence against an armed attack upon the realm or Danish forces, the King shall not use military force against any foreign state without the consent of the Folketing (Danish parliament). Any measure which the King may take in pursuance of this provision shall forthwith be submitted to the Folketing, which if not in session, shall be convened immediately.'³³ In *Germany* according to the Parliamentary Participation Act, which came into force in 2005,³⁴ the Federal government shall send the Bundestag the application for the deployment of the armed forces in good time before the deployment begins. According to the Constitution of *Montenegro*, the parliament decides on the use of units of the army in international forces, on the proposal of the Council for Defense and Security.³⁵
- **What information is needed for the request for authorization submitted to the parliament?** For parliaments to make an informed decision on international deployment they

30 Instrument of Government (adopted 1 January 1975; ICL Document Status 1 January 2015), *Ibid.*

31 Law on Defence (OG 073/2013), available at: https://digarhiv.gov.hr/arhiva/263/104255/narodne-novine.nn.hr/clanci/sluzbeni/2013_06_73_1452.html, Article 49 [accessed 3 Dec 2023].

32 321/2002, ZÁKON z 23. mája 2002 o ozbrojených silách Slovenskej republiky, available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/321/#poznanky.poznamka-25>, Article 12(4) [accessed 3 Dec 2023].

33 Constitutional Act of Denmark, Article 19(2).

34 Federal Ministry of Justice of Germany, Gesetz über die parlamentarische Beteiligung bei der Entscheidung über den Einsatz bewaffneter Streitkräfte im Ausland (Parlamentsbeteiligungsgesetz), 18 March 2005, available at <https://www.gesetze-im-internet.de/parlbgb/BJNR077500005.html> [accessed 3 Dec 2023].

35 See Article 82(8) of the Constitution of Montenegro, available at: https://www.constituteproject.org/constitution/Montenegro_2007

must be provided with appropriate information. The possibility of conducting hearings prior to parliamentary vote is not outlined in national laws. However, several pieces of legislation list the specific type of information which must be included in the proposal submitted to the parliament. In *Italy*, the government is obliged to provide comprehensive information in advance to parliament so that meaningful parliamentary deliberation and voting can take place. Information should include: the geographical area of intervention; objectives; legal basis; the composition of the assets to be sent (including the maximum number of personnel involved); the planned duration; and the financial needs for the year in progress.³⁶ In *Germany*, the application sent by the Federal government to the Bundestag must include information about: the assignment; the area of application; the legal basis of the assignment; the maximum number of soldiers to be deployed; the capabilities of the armed forces to be deployed; the planned duration of the assignment; and the expected costs and financing.³⁷ In *Slovakia*, the proposal for the deployment which is submitted by the Minister of Defence to the government must include: the names of the formations and units to be deployed; the number of the required personnel and employees; the territory and time of deployment; the purpose of deployment (tasks and scope of activities); the system of command; the state organs responsible for cooperation with the organs of any relevant international organization; military equipment needed; and the dates of deployment and return.³⁸ Specifying the type of information which is provided to the parliament goes to ensure that there is a baseline level of knowledge upon which the government can make their decision. This can be especially important in the context of more confidential operations.

- **What is the nature of parliamentary decision-making?** In general the role of parliament is seen as being to authorize the proposal of the government or another respective executive body. However, parliament can also take on a more proactive role. In *Estonia* and *Lithuania* the wording of national laws provides that parliaments do not just authorize the pre-existing proposals, but actively make a decision on the modalities of the operation. In *Lithuania*, the Seimas (parliament) shall adopt a decision to use the armed forces when a need arises to defend the homeland or to fulfil the international obligation of the State of Lithuania.³⁹ The *ex ante* parliamentary authorization requirement following the president's recommendation

36 Legge 21 luglio 2016, n. 145 Disposizioni concernenti la partecipazione dell'Italia alle missioni internazionali, available at <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016-07-21;145>, Article 2(2) [accessed 3 Dec 2023].

37 Parliamentary Participation Act, Section 3.

38 321/2002, ZÁKON z 23. mája 2002 o ozbrojených silách Slovenskej republiky, available at: <https://www.slovlex.sk/pravne-predpisy/SK/ZZ/2002/321/#poznacky.poznamka-25>, Article 12(4) [accessed 3 Dec 2023].

39 Article 142 of the Lithuanian Constitution.

applies to both operations related to collective defence⁴⁰ and to other operations.⁴¹ In the case of collective defence operations, the number and size of the military units deployed, as well as the duration of their stay in the territory of other states is established based on the international agreement, as well as by the joint decision of the parties to the collective defence treaty.⁴² For other operations, the maximum size of the military units used and the maximum duration of their stay in the territory of other states is established by the Seimas when approving the decision of the president.⁴³ This may, when necessary, be reduced by a subsequent Seimas resolution.⁴⁴ In the resolution the Seimas shall set the maximum number of Lithuanian servicemen and national defence personnel authorised to leave, as well as the maximum duration of their stay in the territories of other states.⁴⁵ In *Estonia*, the Riigikogu (the Estonian parliament) decides on the use of defence forces in collective self-defence operations by ratifying international agreements to this end and by making an appropriate decision if such an agreement has not entered into force.⁴⁶ The use of the Defence Forces in such operations in the composition of the rapid reaction forces of an international organisation shall be decided by the Riigikogu prior to the start of the stand-by period of the unit or sub-unit. The Riigikogu shall determine the international organisation in the composition of which the unit or sub-unit shall operate. It shall also decide the number of members of the Defence Forces who may participate in the relevant international military operation.⁴⁷

- **Is the proposal for deployment addressed in the plenary or a specific parliamentary committee?** In *Austria*, for the deployment of military units in UN Peace operations, the decision is adopted in the Main Committee of the National Council and is not debated in the plenary nor is the Federal Council involved.⁴⁸ In *Denmark*, the Defence Committee addresses proposals to send Danish armed forces on international missions.

40 Republic of Lithuania Law on International Operations, Military Exercises and other Military Cooperation Events; 19 July 1994, No I-555, Vilnius (as last amended on 27 June 2018 – No XIII-1313), available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e7ae8be07dc711e89188e16a6495e98c?jfwid=9fbgs6n5e>, Article 5(2) [accessed 3 Dec 2024].

41 *Ibid.*, Article 6(2)

42 *Ibid.*, Article 5(5)

43 *Ibid.*, Article 6(5)

44 *Ibid.*, Article 6(6)

45 *Ibid.*

46 International Military Cooperation Act (adopted 12 February 2003, entered into force 15 April 2003), Article, Available at: <https://www.riigiteataja.ee/en/eli/506112013024/consolide> [accessed 3 Dec 2023].

47 *Ibid.*, Article 8(11).

48 Bundesverfassungsgesetz über Kooperation und Solidarität bei der Entsendung von Einheiten und Einzelpersonen in das Ausland (KSE-BVG), 21 April 1997, available at https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblPdf&Dokumentnummer=1997_38_1 [accessed 3 Dec 2023].

- **What is the minimal voting threshold for the authorization of deployment?** Some countries specify the votes required for parliamentary approval of deployment. This is generally only the case when authorization is done at the level of plenary, not committee level. In *Czechia* the decision on the approval of a dispatch of military forces outside the territory of the Czech Republic and the decision on the participation of Czechia in the defence systems of international organizations of which it is a member, shall require the consent of an absolute majority of all deputies and an absolute majority of all Senators.⁴⁹ In *Hungary*, the National Assembly decides, with the votes of two-thirds of the Members of the National Assembly present, on the deployment of the Hungarian Defence Forces abroad and on their stationing abroad.⁵⁰ In *Montenegro*, the vote has to pass by a two-thirds majority in the first round of voting and by a majority of the total number of the Members of the Parliament in the second round of voting.⁵¹
- **Does legislation permit the parliament to revoke its decision?** In Germany, the Bundestag can always revoke consent to the deployment of the armed forces.⁵²
- **Can parliament override executive authorization of deployment?** As will be discussed later in this chapter, many states exempt certain types of operations from parliamentary approval. While decisions over those operations are in the hands of the executive, it may be the case that the parliament retains supreme authority and may override the executive's decision. For example, in *Czechia*, even in cases of deployment on which the government may decide⁵³, parliament may revoke the governmental decision through a resolution in at least one of its chambers approved by half of all members of this chamber.
- **Are there any time-considerations for parliamentary authorization?** National legislation is generally vague as regards the time in which the executive must submit the proposal for parliamentary authorization e.g., in the next parliamentary session. There are nevertheless some exceptions. For example, in the *United States* the 1973 War Powers Act requires that the President informs the Congress within 48 hours of committing US armed forces to an overseas conflict or a situation where hostilities are imminent. While on its own this serves only as a notification requirement (see below 'duration of deployment'), it ensures that the Congress is informed in a timely manner in order to deliberate the authorization of deployment if the mission exceeds 60 days. In *Sweden*, an approval from the Riksdag is always required

49 Article 39(3) of Czech Constitution

50 Constitution of Hungary, Article 47(2), available at https://www.constituteproject.org/constitution/Hungary_2016 [accessed 3 Dec 2023].

51 Constitution of Montenegro, available at https://www.constituteproject.org/constitution/Montenegro_2007, Article 91 [accessed 3 Dec 2023].

52 Bundesverfassungsgesetz über Kooperation und Solidarität bei der Entsendung von Einheiten und Einzelpersonen in das Ausland (KSE-BVG), 21 April 1997, available at https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgbIPdf&Dokumentnummer=1997_38_1, Section 8 [accessed 3 Dec 2023].

53 See Article 43 of Czech Constitution.

before deployment and the armed forces are deployed *after* the parliamentary decision. However, the Government can order the Armed Forces to make all necessary preparations before parliamentary approval. Nevertheless the deployment may take place only after parliamentary approval. In *Germany*, the Federal Government and the Bundestag must ensure that parliamentary approval is given at a time when the substantive decision on the use of armed forces has not yet been taken and is not taken before the approval procedure has been concluded.⁵⁴

- **Does the judiciary have any influence over the decision-making process?** *Germany* due to its twentieth-century history offers rather a special case of parliamentary oversight. The Federal Constitutional Court (FCC) played a key role in the development of the requirement of parliamentary approval for military missions abroad by interpreting the relevant constitutional provisions broadly. In 1994 the FCC ruled that German participation in NATO and UN peacekeeping missions was in conformity with the Constitution.

Triple lock – the case of Ireland. The case of *Ireland* is rather special due to its policy of military neutrality, on the basis of which it joined the Partnership for Peace framework in 1999. Irish armed forces can be used for peacekeeping and crisis management operations where there is a UN mandate, a government decision and parliamentary approval – also known as the ‘triple lock’. According to the Defence (Amendment) (No. 2), Act 1960, a contingent of the Permanent Defence Force may be despatched for service outside the State as part of a particular International United Nations Force but only if a resolution has been passed by Dáil Éireann (parliament) approving its despatch.⁵⁵

1.3 Material and Temporal Scope of Operations Affecting Parliamentary Legislative Powers

The most widespread factor which affects parliamentary control over international deployment in national systems is the character of the operation at hand. The various considerations which mandate, or exempt parliamentary authorization can be divided into two categories: 1) the significance of the operation; and 2) whether the operation is governed by an international agreement.

54 Redaktion Beck-Aktuell, ‘BVerfG: Bundesregierung musste Libyen-Einsatz der Bundeswehr nicht nachträglich von Bundestag genehmigen lassen’, 23 September 2015, available at <https://ebibliothek.beck.de/Print/CurrentDoc?vpath=bibdata/reddok/becklink/2001145.htm&printdialogmode=CurrentDoc> [accessed 3 Dec 2023].

55 According to the Defence (Amendment) (No. 2), Act 1960, Section 2(2), available at <https://www.irishstatutebook.ie/eli/1960/act/44/enacted/en/html>.

Parliaments generally retain more control over deployment for international operations which are more significant. The significance of an operation may be determined by its duration, number of personnel involved, political relevance. This includes the question of whether participation in the operation has the potential to make the state party to an armed conflict, and the specific character of the deployment.

- **Duration of deployment:** Many national systems require parliamentary approval for operations exceeding a certain number of days, while for shorter operations – typically provided that they are part of an existing international treaty – a governmental decision may be sufficient. For example, in *France*, interventions exceeding four months require parliamentary approval which the government must request in the form of an extension.⁵⁶ If parliament is not sitting at the end of the four-month period, it shall express its decision at the opening of the following session.⁵⁷ In the *United States*, according to the 1973 War Powers Act if a military action exceeds 60 days the President must obtain an explicit Congressional authorization for continuation or forces must be withdrawn within 30 days. In *Slovakia*, parliamentary authorization is required for deployment on missions that exceed 60 days.⁵⁸ In *Czechia*, the government may decide on the deployment of military forces if it is up to 60 days and they concern: a) fulfilment of international contractual obligations concerning common defence against aggression; b) participation in peace operations pursuant to a decision of an international organization of which the Czech Republic is a member, and providing there is an approval of the receiving state; and c) participation in rescue operations in the case of natural, industrial and ecological disasters. The government must nevertheless inform both Chambers of the Parliament of its decisions with no delay and even in these cases parliament revoke government's decision.⁵⁹
- **Number of soldiers deployed:** A certain threshold of armed forces personnel involved in an international operation may trigger the requirement for parliamentary authorization. For example, in *Sweden*, the Riksdag has authorised the Government to take certain decisions to deploy an armed force of a maximum of 3,000 persons for UN or OSCE peacekeeping activities abroad (Act concerning Armed Forces for Service Abroad (2003:169)).⁶⁰ In *Ireland* parliamentary approval is not required for deployment which is not part of an International United Nations Force, if the contingent consists of not more than twelve people, and if the number of members of the Permanent Defence Force serving outside the State with that International United Nations Force will not, by reason of such dispatch, be increased to a

56 French Constitution, Article 35.

57 *Ibid.*, Article 35.

58 Constitution of the Slovak republic, Article 119(p).

59 Article 43 of the Czech Constitution.

60 The response provided from Sweden, on file with the author.

number exceeding twelve.⁶¹ In *Lithuania*, the deployment of military units abroad for exercises or other events may require the approval of the Seimas if the total number of servicemen and civilian national defence personnel is over 800.⁶²

- **High political relevance of operation:** The provisions on the duration of deployment or the number of personnel engaged allude to the consideration of the political significance of specific operations in requiring parliamentary authorization. Several national systems make this consideration more explicit and allow parliaments to assert their decision-making powers in the cases of operations which may carry greater political, financial, security, legal or other implications. For example, in *Spain*, the Spanish Organic Act 5/2005 on National Defence includes chapter III on 'Missions of the Armed Forces and their parliamentary oversight'. According to chapter III, prior parliamentary consultation and authorization is required for the conduct of operations abroad that are not directly related to the defence of Spain and its national interests. In *Germany*, a simplified approval procedure can be conducted if the number of soldiers deployed is small, if the operation is clearly of minor importance based on the other accompanying circumstances and if it is not a question of participation in a war. As a rule, low intensity and scope applies to a reconnaissance commando that carries weapons solely for self-defense; individual servicewomen or men who serve in allied armed forces on the basis of exchange agreements; individual soldiers working with the UN, NATO, the EU or an organization fulfilling a UN mission.⁶³ That being said, the *German* Federal Constitutional Court in its Libya ruling (2015) interestingly decided that humanitarian objectives do not circumvent the need for parliamentary approval. In general, missions that are recognizably of low intensity and scope or that are politically of minor importance could also be subject to the constitutional requirement of parliamentary approval. Without prior parliamentary approval, the deployment of armed forces is not, in principle, permissible under the Basic Law. Considerations of political relevance can sometimes be included through specific criteria (e.g., armed action in Germany) or disguised through other provisions which allow parliaments to assert control in the case of controversial operations see, further, below for what constitutes obligation under an international treaty).
- **Presence of armed action v. non-military operations (preparatory measures, humanitarian aid, and assistance, etc.):** Perhaps the most widespread consideration for requiring parliamentary authorization is the type of operation – more specifically whether the deployment will require the use of force or whether the operation at hand is non-military in nature. For example, in *Germany*, parliamentary assent may be required if the military

61 According to the Defence (Amendment) (No. 2), Act 1960, Section 2(2), available at <https://www.irishstatutebook.ie/eli/1960/act/44/enacted/en/html> [accessed at 3 Dec 2023].

62 Republic of Lithuania Law on International Operations, Military Exercises and other Military Cooperation Events; 19 July 1994, No I-555, Vilnius (as last amended on 27 June 2018 – No XIII-1313), available at <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e7ae8be07dc711e89188e16a6495e98c?jfwid=9fbgs6n5e> [accessed at 3 Dec 2023], Article 10(1) – governmental approval is required if the number is between 150 and 800 and if it is below 150 Ministry of National Defence makes the decision.

63 *Ibid.*, Section 4

forces are expected to get involved in armed action.⁶⁴ Similarly, in Ireland, deployment with an International UN Force may take place without parliamentary authorization if the force is unarmed.⁶⁵ National legislation commonly distinguishes between various types of permissible international deployment. Deployment for humanitarian aid, disaster relief, training, ceremonial purposes or for other types of non-military engagements is typically exempt from parliamentary approval (unless due to, for example, the high number of troops, as in the case of *Lithuania* parliamentary authorization is required). In *Germany*, preparatory measures, planning, humanitarian aid services and assistance provided by the armed forces, in which weapons are only carried for the purpose of self-defense, do not require the approval of the Bundestag.⁶⁶ In *Slovakia*, the government decides without the need for parliamentary approval on the deployment of military forces outside the territory of the Slovak Republic for the purpose of humanitarian aid, military exercises and peace observing missions.⁶⁷ Similarly in *Croatia*, the use of armed forces in the provision of international humanitarian aid is excluded from parliamentary authorization and only governmental decisions, with prior consent from the president, is required.⁶⁸ In *Sweden*, the Riksdag has also agreed that the Government may decide to deploy an armed force abroad to participate in training within the framework of Sweden's military cooperation (Act concerning Training within the Framework of International Military Cooperation (1994:588)).⁶⁹ In *Czechia*, the government decides on the participation of military forces in military exercises outside the territory of the Czech Republic.⁷⁰ In *Ireland*, in cases of the deployment of a contingent or member of the Permanent Defence Force for external service for purposes other than service with International United Nations Forces, only governmental approval is required in a number of circumstances. These are when they are carried out for the purposes of: (a) carrying out duties as a military representative or filling appointments or postings outside the State, including secondments to any international organization; (b) conducting or participating in training; (c) carrying out ceremonial duties, participating in exchanges or undertaking visits; (d) undertaking monitoring, observation or advisory duties; (e) participating in or undertaking reconnaissance or fact-finding missions; (f) undertaking humanitarian tasks in response to an actual or potential disaster or emergency; (g) participating in sporting events; or (h) inspecting and evaluating stores, equipment and

64 Parliamentary Participation Act, Section 7.

65 According to the Defence (Amendment) (No. 2), Act 1960, Section 2(2), available at <https://www.irishstatutebook.ie/eli/1960/act/44/enacted/en/html> [accessed 3 Dec 2024].

66 Parliamentary Participation Act, Section 2

67 Constitution of the Slovak republic, Article 119(o)

68 Law on Defence (OG 073/2013), available at https://digarhiv.gov.hr/arhiva/263/104255/narodne-novine.nn.hr/clanci/sluzbeni/2013_06_73_1452.html [accessed 3 Dec 2024], Article 56

69 The response provided from Sweden, on file with the author.

70 Czech Constitution, Article 43.

facilities.⁷¹ It should be noted that not all states provide for these exemptions. For example, even though the Constitutional Act of *Denmark* distinguishes between military missions abroad and the use of armed forces to repel an attack, parliamentary approval is required for all types of operations including humanitarian operations and military training.

Since a large number of international deployments take place within the framework of international agreements and under the umbrella of organizations such as the UN, NATO, EU or OSCE multiple states have distinguished in their national legal systems procedures for the authorization of such operations. These are typically through a more simplified procedure which sometimes means that there is no need for parliamentary approval. Depending on the specific phrasing of the provision, a parliament may retain different levels of power over authorization. Two main approaches can be identified: countries which exempt parliamentary authorization for deployment for operations governed by an international agreement; and countries which exempt parliamentary authorization when an international operation constitutes part of an obligation of that state under a given international agreement. The former approach is rather categorical, while the latter leaves space for interpretation and may warrant parliamentary involvement and deliberation. This is especially so with more controversial missions. Specific international agreements or international organizations are sometimes specifically listed in national legislation. Cases of the first approach can be found for example in *Romania*, where *ex ante* parliamentary approval is required only for deployment of armed forces for missions which are not governed by an international treaty.⁷² Romania allows for the participation of the Romanian armed forces in mission outside its territory which are: collective defence; in support of peace, humanitarian assistance; coalition type; joint exercises; individual; or ceremonial.⁷³ Parliamentary authorization is required only in cases when deploying armed forces abroad is conducted within this scope and it is not done on the basis of an international treaty to which Romania is a party.⁷⁴ In *Hungary*, the deployment of forces based on the decision of the EU or NATO and of other troop movement thereof is exempt from authorization by the National Assembly.⁷⁵

When parliamentary authorization for deployment is not needed within the framework of an international agreement, parliaments can still intervene if the operation at hand carries greater political implications. For example, In *Sweden*, the Riksdag has authorised the Government to take certain decisions to deploy up to 3,000 armed forces personnel for peacekeeping activities abroad, at the request of the United Nations (UN) or in accordance with a decision of the Organization for

71 Defence (Amendment) Act 2006, Section 3, Available at <https://www.irishstatutebook.ie/eli/2006/act/20/section/3/enacted/en/html#sec3> [accessed 3 Dec 2024].

72 Law no 43 of March 15, 2004, published in *Monitorul Oficial* no. 242, 18 March 2004, available at: <https://legislatie.just.ro/Public/DetaliiDocument/50508>, see Article 7(2), [accessed 3 Dec 2023].

73 *Ibid.*, see Article 2

74 *Ibid.*, see Article 7(2)

75 Constitution of Hungary, Article 47(3), available at https://www.constituteproject.org/constitution/Hungary_2016 [accessed 3 Dec 2023].

Security and Co-operation in Europe (OSCE) (Act concerning Armed Forces for Service Abroad (2003:169)).⁷⁶ In *Slovakia*, the government decides on dispatching military forces outside of the territory of the Slovak Republic relating to obligations resulting from international treaties on joint defence against attack for a maximum period of 60 days.⁷⁷ This approach reflects the previously discussed balancing act between the need to maintain expediency while retaining parliamentary control over more substantial operations.

This consideration is also manifested in the second approach, where national legislation alludes to an international obligation under an international agreement. Many international operations take place within the framework of an international agreement, but they do not impose an obligation on the party to the agreement to contribute troops and to take part in the operation. Participating in those operations remains a voluntary decision of states. This approach is rather interesting in that parliaments can *bona fide* not exercise their decision-making power when the deployment takes place within the framework of an international agreement. But they could then get involved in cases of controversial operations by challenging whether the operation, indeed, constitutes the states' international obligation or when it is necessary for achieving the objective of an international agreement. For example, in *Estonia*, if an international agreement to which Estonia is a party sets out that an armed attack against another party to the agreement is deemed to be an armed attack against Estonia, the president can order mobilisation without waiting for a parliamentary resolution if this is unavoidably necessary to resist the attack and to fulfil the objective of the specified agreement.⁷⁸ The Riigikogu, the Estonian parliament, shall decide on the use of the Defence Forces in a collective military operation organised to maintain or to restore peace and security on the basis of the provisions of Chapters VI and VII of the UN Charter and another military operation which is in accordance with the generally recognised principles and rules of international law, separately for each individual case unless otherwise provided for in a treaty.⁷⁹ Similarly, in *Türkiye*, the power to declare war in cases deemed legitimate by international law, and, except where required by international treaties to which *Türkiye* is a party or by the rules of international courtesy, to send Turkish Armed Forces to foreign countries, and to allow foreign armed forces to be stationed in Turkey is vested in the Turkish Grand National Assembly.⁸⁰ It follows that international missions such as NATO, EU or UN operations may be exempted from parliamentary approval provided that they are part of Türkiye's obligation under an international treaty.

An additional set of circumstances which may preclude the requirement of parliamentary authorization are international operations which have been pre-authorized by parliaments within a specific context or for a specific purpose. Examples of this kind of legislation can be found in

76 The response provided from Sweden, on file with the author.

77 Constitution of the Slovak republic, Article 119(p)

78 International Military Cooperation Act (adopted 12 February 2003, entered into force 15 April 2003), Available at <https://www.riigiteataja.ee/en/eli/506112013024/consolide> [accessed 3 Dec 2024], Article 7(4).

79 *Ibid.*, Articles 6(2) and 8(1)

80 Constitution of Türkiye, Article 92

the case of *Sweden* and the *US*. In *Sweden*, Pursuant to the Act on Operational Military Support (2020:782), the Government may decide to deploy the Swedish Armed forces to support Finland, for example, to prevent violations of Finnish territory. Before the Riksdag adopted a decision on this Act, the Riksdag's approval was required in each specific case. Under the Act on Operational Military Support between Sweden and Finland, the Government may, provided Sweden is not at war and there is no ongoing armed conflict on Finnish territory, decide to deploy Swedish Armed Forces at the request of Finland. The purpose is, in accordance with international law, to support Finland in preventing violations of Finnish territory.⁸¹

In the *U.S.*, while the 1973 War Powers Act mandates for congressional authorization, in the aftermath of 9/11 the Congress passed resolutions on the Authorization for Use of Military Force (AUMF), the most prominent being 2001 AUMF Against those responsible for 9/11 and 2002 AUMF against Iraq. The AUMFs granted the President the authority to use military force under specific circumstances and provided them a legal basis to take military action without seeking explicit approval from Congress for each individual use of forces. The AUMFs have been subject to various interpretations and debates over the years, with critics arguing that the broad language of the resolutions has been used to justify military actions beyond their original intents and that they have ceded substantial war-making powers to the executive branch without proper congressional oversight. For example, President Donald Trump cited the AUMF when authorizing the strike that killed Iranian General Qasem Soleimani in Baghdad.⁸² In March 2023 Senate voted to repeal the 1991 and the 2002 AUMFs. Nevertheless the 2001 9/11 AUMF was omitted. This allows for a much broader military action and authorized the President to 'use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.'

1.4 Cases of Urgency and Emergency

It is a widespread practice among countries to allow for the by-passing of parliamentary authorization of deployment in cases of urgency or emergency. This is because in situations where immediate action is necessary, often lengthy parliamentary deliberations and voting may paralyze the capacity of the executive to take action. That being said, parliamentary *post facto* approval is generally still required. For example, in *Austria*, in matters of high urgency, the Federal Chancellor, the Foreign Minister and any other relevant ministers (e.g., the Minister of Defence) can decide to deploy troops immediately. In such a case, the Federal Government must report to the Main Committee of the National Council which can veto deployment within two weeks. In *Croatia*, in the event of a clear and present danger to the independence, integrity and existence of

81 The response provided from Sweden, on file with the author.

82 Ali Zaslav, Jeremy Herb and Nicky Robertson, 'Senate votes to repeal Iraq War power authorizations, 20 years after US invasion', CNN, 29 March 2023, available at <https://edition.cnn.com/2023/03/29/politics/senate-vote-aumf/index.html> [accessed 3 Dec 2023].

the Republic of Croatia, the President of the Republic may, with the countersignature of the Prime Minister, order the deployment of the armed forces even if a state of war has not been declared.⁸³ Parliamentary authorization is not required either in the state of war or in the state of immediate threat.⁸⁴ In *Germany*, operations in the event of imminent danger that cannot be postponed do not require the prior approval of the Bundestag. Nevertheless, the Bundestag is to be informed in an appropriate manner before and during deployment and if the application for the approval of the assignment is rejected the mission must be terminated.⁸⁵ In *Lithuania*, in the event of an armed attack which threatens the sovereignty of the State or its territorial integrity or in emergency cases, the President of the Republic can immediately adopt a decision on defence against any armed aggression. He or she can also impose martial law throughout the State or in parts of the same; and announce mobilization. The President must submit these decisions to the next sitting of the Seimas for approval, while in the period between sessions of the Seimas the president shall immediately convene an extraordinary session of the Seimas. The Seimas shall approve or repeal the decision of the President of the Republic.⁸⁶ In *Spain*, with international missions in accordance with international commitments which require a rapid or immediate response, the procedures for prior consultation and authorisation shall be carried out by means of emergency procedures. These allow for Spain to comply with those commitments. In cases where it is not possible for reasons of urgency to carry out prior consultation, the government shall submit to the Congress of the Members the decision it has taken for ratification as soon as that is possible.⁸⁷

1.5 Frequency of authorization and extension or changes to mandate

The level of parliamentary control over any international deployment is not only determined by the requirement for the initial parliamentary approval of the respective deployment. It also, in some countries, depends on the need to provide periodical authorization, approve extensions of international operations or any changes to its mandate. For example, in *Italy*, authorization for each deployment is required on an annual basis.⁸⁸ In *Denmark* the government consults parliament if it plans to make major changes to the original mandate for military deployment. In *Croatia*, if there is

83 Article 100 of Croatian Constitution.

84 Law on Defence (OG 073/2013), available at https://digarhiv.gov.hr/arhiva/263/104255/narodne-novine.nn.hr/clanci/sluzbeni/2013_06_73_1452.html [accessed 3 Dec 2023], Articles 47 and 48.

85 Parliamentary Participation Act, Section 5.

86 Article 142 of the Constitution of the Republic of Lithuania; see also Republic of Lithuania Law on International Operations, Military Exercises and other Military Cooperation Events; 19 July 1994, No I-555, Vilnius (as last amended on 27 June 2018 – No XIII-1313), available at <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e7ae8be07dc711e89188e16a6495e98c?jfwid=9fbgs6n5e> [accessed 3 Dec 2023], Articles 5(3) and 6(3).

87 Article 17(2-3) of the Spanish Organic Act 5/2005 on National Defence.

88 Legge 21 luglio 2016, n. 145 Disposizioni concernenti la partecipazione dell'Italia alle missioni internazionali, available at <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016-07-21;145> [accessed 3 Dec 2023], Article 2(2).

a need to change the mandate of international forces during the operation due to the need to use force or the threat of force and due to increased security risks, the decision on the continuation or termination of said deployment is made by the parliament at the proposal of the government and with prior consent of the president.⁸⁹ In *Slovakia*, the duration of deployment, as well every other change to the mandate of the deployment, is subject to the decision of the parliament or the government.⁹⁰ Shortening the duration of deployment must be approved by the government or parliament.⁹¹ In *Austria*, the Main Committee of the National Council can decide an automated renewal of individual and limited missions. The Federal Government has to inform the Main Committee of its plans to extend a mission and the Main Committee has the right to a veto within two weeks. In Sweden, general open-ended authorisations are not standard practice. In the 1990s, the *Swedish* government proposed that the Riksdag should authorise the deployment of armed forces without strict time and number limits. But this proposal was rejected and such limits are now common practice. As a rule, a time limit of one year is set.⁹² In *Germany*, if the Federal Government applies for the extension, the assignment shall be deemed to have been approved within two sessions days after the application has been distributed as printed matter within the Bundestag.⁹³ The Federal Government must also obtain renewed parliamentary approval if the conditions required in the original approval cease to apply or if they become ineffective. In *North Macedonia*, the legislature approves changes in the modalities of ongoing peacekeeping operations. According to the circumstances it is mostly a question of changing the number of personnel, the composition or time period of the mission.⁹⁴ In *Ireland*, parliamentary authorization is not required if deployment is intended to replace, in whole or in part, or to reinforce a contingent of the Permanent Defence Force serving outside the State as part of that International United Nations Force and consisting of fewer than twelve members of the Permanent Defence Force.⁹⁵

As can be seen, international practice in this regard is rather diverse. Setting strict time limits for periodical approval on international operations may not necessarily be an effective approach. This is especially so if the expected duration of such operations initially exceeds that period. Retaining the need for parliamentary authorization in case of the need for extensions or in the case of mandate change may strengthen democratic control over international operations. An effective tool to retain expediency and effectiveness in decision-making over international operations is the

89 Law on Defence (OG 073/2013), available at https://digarhiv.gov.hr/arhiva/263/104255/narodne-novine.nn.hr/clanci/sluzbeni/2013_06_73_1452.html [accessed 3 Dec 2023], Article 55

90 321/2002, ZÁKON z 23. mája 2002 o ozbrojených silách Slovenskej republiky, available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/321/#poznanky.poznamka-25> [accessed 3 Dec 2023], Article 12(5).

91 *Ibid.*, Article 12(6)

92 The response provided from Sweden, on file with the author.

93 Parliamentary Participation Act, Section 7.

94 The response provided from North Macedonia, on file with the author.

95 According to the Defence (Amendment) (No. 2), Act 1960, Section 2(2), available at <https://www.irishstatutebook.ie/eli/1960/act/44/enacted/en/html> (accessed 3 Dec 2023).

use of silent procedures. These allow for parliaments to retain control without the need to undergo deliberations and to hold voting procedures, as long, of course, as there is underlying agreement with the modalities of the deployment.

2. Communication-based Powers: Consultation and notification requirement

As already noted, some countries do not require *ex ante* authorization of military deployment. These countries include *Australia, Belgium, Canada, Finland, Netherlands, Norway, Poland, Portugal, Slovenia and the United Kingdom*. This nevertheless does not mean that national parliaments have no role in these processes. The powers of the legislative branch in this regard can be referred to as communication-related, as they allude to the deliberative role of parliaments in reflecting on the implications and concerns of their democratic constituencies. The two obligations that are relevant in this regard are the notification and consultation requirement. These requirements are not only tools based on democratic theory. They may also serve to substantially empower the parliaments to oversee international operations when they are underway (see next chapter). Furthermore, parliamentary debate over international deployment can influence how decisions on the military operation will be negotiated, made or implemented. In practice in states without *ex ante* veto power, parliaments are becoming increasingly involved in deliberations on military operations. The requirement to hold parliamentary debate may also apply in countries with *ex ante* parliamentary authorization prior to the parliamentary vote. Furthermore, the notification and consultation requirement is also relevant in cases where parliamentary approval is not required for a given type of international deployment, even though general *ex ante* authorization requirement otherwise exists.

2.1 Notification requirement

The bare minimum involvement of parliament in international deployment is the obligation of the executive to notify the parliament of its decision to deploy armed forces for an international operation. For example, in *Belgium* the decision to deploy the army abroad rests entirely with the executive but the federal parliament is notified as soon as interests and security of the State permit. Parliamentary debate on matters of deployment is not required.⁹⁶ In *Hungary*, in cases when deployment is based on an EU or NATO decision and parliamentary authorization is not required, the government reports to the National Assembly on its decisions concerning deployment or on authorising the participation of the Hungarian Defence forces in peacekeeping or their humanitarian activity in a foreign operational area.⁹⁷ In *Romania*, in cases when armed forces are deployed on the basis of an international treaty to which Romania is a party, the mission is approved by the president upon the proposal of the prime minister. The president must inform the parliament about the decision within five days of taking it and if the parliament is on recess, at the beginning

96 See Article 167 of Belgian Constitution.

97 Constitution of Hungary, Article 47(4), available at https://www.constituteproject.org/constitution/Hungary_2016 [accessed 3 Dec 2023].

of the next ordinary or extraordinary session.⁹⁸ In the *Netherlands*, the supreme authority over the armed forces rests with the government and no formal parliamentary approval is required. In line with Art 100 (1) of the Constitution, which was revised in 2000, the government informs the States General (the Dutch Parliament) in advance if the armed forces are to be deployed to maintain or promote the international legal order. This must also include the provision of humanitarian aid in the event of armed conflict. If compelling reasons prevent the provision of information in advance, the information shall be supplied as soon as possible. It is interesting to note that the obligation to notify does not apply to military operations that are carried out for individual or collective self-defence, as defined in Art 51 of the UN Charter. However, it has been suggested that in practice, the government would inform parliament.⁹⁹ In *Poland* deployment decisions are taken by the President of the Republic, who must inform its parliament. According to the Act on the Principles of Deployment or Stay of the Armed Forces of the Republic of Poland Abroad, Article 3(2), the president must immediately notify the Marshal of the Sejm and the Marshal of the Senate about taking a decision regarding the deployment of military units abroad.

In the case of *Portugal* where military deployments abroad do not require parliamentary approval, the government decides on military missions and notifies parliament beforehand for consideration and subsequent monitoring. Monitoring mainly occurs at the level of the Defence Committee.¹⁰⁰ If justified by the nature of the mission, the notification shall occur when the security term requested by the action has been completed. The information provided to the *Portuguese* parliament has to be comprehensive, covering a range of aspects of the respective military mission to facilitate monitoring: namely requests for involvement and the grounds for deployment; draft decision or proposal of that involvement; the military resources involved; the type and level of estimated risks; the likely duration of the mission; and information and official publications deemed useful and necessary. The Portuguese parliament is not expected to comment on the information provided, nor, indeed, to provide any assessment and it only pronounces the military operation once the government has made its decision. By virtue of this information parliament can subsequently oversee military operations. While the Portuguese parliament does not have to authorize international missions, it is worth noting that parliament elects two representatives to the High Council for National Defence which, together with the President of the National Defence Committee, who is also a member of this Council, are charged with the approval of specific Armed forces missions and the system or forces necessary for their fulfilment.¹⁰¹

98 Law no 43 of March 15, 2004, published in *Monitorul Oficial* no. 242, 18 March 2004, available at <https://legislatie.just.ro/Public/DetaliiDocument/50508>, see Article 7(1)

99 Feedback from the Netherlands' parliament, on file with the author.

100 Feedback received from the Portuguese parliament, on file with the author.

101 *Ibid.*

2.2 Notification requirement with potential for parliamentary debate

In some countries national legislation mandates that the government notify parliament which can then hold a parliamentary debate on the matter. Take, for example, Canada. The Canadian Constitution does not provide for parliamentary involvement in decision-making and the federal government can deploy personnel on active service.¹⁰² But the government may seek parliamentary consultation¹⁰³ that can take the form of take-note debates or votes in the House of Commons. Such votes are non-binding.¹⁰⁴ At the same time, established practice allows Parliament 'to ask questions and make comments concerning the deployment, while retaining the ultimate decision-making authority in the hand of the executive. In practice only those deployments involving significant troop levels have historically been subject to this parliamentary consultation practice.'¹⁰⁵ These votes have so far benefited and enabled the executive, rather than strengthening legislative control. This is due to the ambiguous character of the consultation requirement which allowed the executive to choose when the House is consulted and does so for politically motivated ends: it is a way to divide opposition parties, discourage debates about controversial missions and to deflect the Cabinet's accountability in such decisions. This has not been a way to systematically establish a legislature's role through convention.¹⁰⁶ In *France*, the government must inform the parliament of its decision to have the armed forces intervene abroad, at least within three days of the beginning of the said intervention. The objectives of the said intervention must be set out. This information may give rise to a debate, but there is no vote.¹⁰⁷

102 Government of Canada, 'National Defence Act R.S.C., 1985, c. N-5.' Sec 31(1), available at <https://laws-lois.justice.gc.ca/eng/acts/N-5/FullText.html> [accessed 3 Dec 2024]. The Government can do so in an emergency associated with the defence of Canada; any action carried out by Canada under the UN Charter; or any action undertaken by Canada under the North Atlantic Treaty, the North American Aerospace Defence Command Agreement or any other similar instrument to which Canada is a party.

103 Office of the Judge Advocate General, 'The Specific Case of the Crown Prerogative Power to Deploy the CF on Military Operations of Canada', at <https://www.canada.ca/en/department-national-defence/corporate/reports-publications/military-law/crown-prerogative/the-specific-case-of-the-crown-prerogative-power-to-deploy-the-cf-on-military-operations-of-canada.html> [accessed 3 Dec 2023]. The Judge Advocate states that 'under a system of responsible government, the executive must maintain the confidence of the elected House of Parliament. By bringing an executive decision to Parliament for consideration, the executive places a political hurdle to a possible position of the elected House that this same executive decision be used as a basis for a vote of non-confidence. Additionally, the public may respond well to a decision by the executive to present a matter to Parliament for consideration. In theory, a greater range of opinion would be heard in that forum rather than solely in government.'

104 Philippe Lagassé, 'Parliament and the War Prerogative in the United Kingdom and Canada: Explaining Variations in Institutional Change and Legislative Control', *Parliamentary Affairs* 70 (2016), 280–300.

105 Office of the Judge Advocate General, 'The Specific Case of the Crown Prerogative Power to Deploy the CF on Military Operations of Canada' under 3.6.2, 6 March 2015, available at <https://www.canada.ca/en/department-national-defence/corporate/reports-publications/military-law/crown-prerogative/the-specific-case-of-the-crown-prerogative-power-to-deploy-the-cf-on-military-operations-of-canada.html> [Accessed 3 Dec 2023].

106 P. Lagassé, 'Parliament and the War Prerogative in the United Kingdom and Canada: Explaining Variations in Institutional Change and Legislative Control', *Parliamentary Affairs* 70 (2017), 280–300, <https://doi.org/10.1093/pa/gsw029> [accessed 3 Dec 2023].

107 French Constitution, Article 35.

2.3 Consultation requirement

In some countries parliamentary debate on international deployment is not merely an option for parliament or the relevant parliamentary body. It is expected to take place. The approaches to deliberation and consultation take different forms. In *Spain*, where parliament votes on international deployment, parliamentary consultation is required together with authorisation. In *Slovenia*, in the event of military operations, or civilian missions with executive powers, or in the case of extraordinary international events, the Slovenian Government informs the National Assembly of its intent to participate. The matter is discussed by the two competent committees: the Committee on Defence; and the Committee on Foreign Policy. Related materials are presented and then discussed at their meetings. Voting is not envisaged according to the legislation, so both committees merely take note of the matter.¹⁰⁸

The *United Kingdom* does not have specific legislation relating to the use of armed forces and military operations abroad. UK experience in Iraq cemented, however, a growing elite consensus that parliament should be involved to check the executive against unpopular, unwise or potentially illegal military interventions.¹⁰⁹ Two inquiries by parliamentary committees recommended greater parliamentary oversight and control in decisions to deploy the UK military (House of Commons 2004, House of Lords 2006). In 2011, the UK Government acknowledged that a constitutional convention had developed whereby the House of Commons (Lower House of UK Parliament) should have an opportunity to debate the matter before troops are committed to military operations abroad. Claire Mills extensively analyzed the case of the UK. The Syria vote in 2013 was, and continues to be, viewed by many as a turning point in parliamentary control over deployment. Commentators have argued that the defeat of the Government laid to rest doubts over the convention and made the deployment of the British armed forces without parliamentary approval, politically difficult in the future.¹¹⁰ As a convention, however, it has no legal basis, and Governments can choose whether to follow it or not. The Government has publicly said that they may not follow the convention in cases of emergency.¹¹¹ There will be a vote at the end of the debate, but it has no legal standing. The Government could still choose to commit troops even if it is defeated in Parliament, though that would be unlikely.

108 Feedback from the Slovenia's parliament, on file with the author; see also Defence Act 103/2004. available at <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2004-01-4405/zakon-o-obrambi-uradno-precisceno-besedilo-zobr-upb1> [accessed 3 Dec 2023], Article 84.

109 W. Wagner, A. Herranz-Surrallés, J. Kaarbo, F. Ostermann, 'The party politics of legislative–executive relations in security and defence policy', *Challenging Executive Dominance: Legislatures and Foreign Affairs*, ed., Tapio Raunio, Wolfgang Wagner (London: Routledge, 2018), available at <https://www.taylorfrancis.com/chapters/oa-edit/10.4324/9781315149318-2/party-politics-legislative%E2%80%93executive-relations-security-defence-policy-wolfgang-wagner-anna-herranz-surrall%C3%A9s-juliet-kaarbo-falk-ostermann> [accessed 3 Dec 2023].

110 C. Mills, 'Parliamentary approval for military action', *House of Commons Library*, CBP 7166, 8 May 2018, available at <https://researchbriefings.files.parliament.uk/documents/CBP-7166/CBP-7166.pdf>

111 Feedback from the United Kingdom parliament, on file with the author.

In *Australia*, the debate on parliamentary oversight is ongoing. The defence minister previously advised against giving parliament a veto over military deployments.¹¹² The Australian Parliament was nevertheless able to launch inquiries into executive decision-making regarding military deployments. Indeed, to this end, the Joint Standing Committee on Foreign Affairs, Defence and Trade launched an inquiry into international armed conflict decision making. This inquiry reviewed how Australia makes decisions to send service personnel into international armed conflict.¹¹³ In light of this inquiry the Defence Minister ‘proposed more opportunities for non-binding debates in parliament.’¹¹⁴ Following the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade the Australian government has responded that it agrees that when the Australian Defence Forces are engaged in major military operations as a party to an armed conflict, a written statement should be published and tabled in Parliament. This would set out the objectives of those major military operations, the orders made and its legal basis.¹¹⁵ The government further agreed that a ministerial statement to inform a timely debate in both Houses of Parliament is an important mechanism to improve transparency and public debate in relation to a decision of the executive to engage in major military operations as a party to an armed conflict. This should occur at the earliest opportunity and not later than 30 days after deployment, subject to any consideration of national security or imminent threat to Australian territories or civilian lives.

The practice in *Finland* and *Norway* is rather different in that the consultation does not take place merely at the level of the parliament, but also between the relevant legislative and executive bodies. In *Finland*, the decision on Finland’s participation in military crisis management and on the termination of such participation is taken separately in each case by the President of the Republic on the basis of a proposal put forward by the government.¹¹⁶ Before submitting the proposal to the president, the government must consult Parliament’s Foreign Affairs Committee. If the proposal concerns a crisis management operation that presents a particularly demanding military challenge or an operation that is not based on a UN Security Council mandate, the government must, before

112 The Guardian, ‘Australia’s defence minister advises against giving parliament veto over military deployments’, 10 October 2022, available at <https://www.theguardian.com/australia-news/2022/oct/10/australias-defence-minister-advises-against-giving-parliament-veto-over-military-deployments> [accessed 3 Dec 2023].

113 Parliament of Australia, ‘Inquiry into International Armed Conflict Decision Making’, 18 November 2022, available at https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Armedconflict. [accessed 3 Dec 2023].

114 ‘Australia’s defence minister advises against giving parliament veto over military deployments’, *Guardian* (10 October 2022), available at <https://www.theguardian.com/australia-news/2022/oct/10/australias-defence-minister-advises-against-giving-parliament-veto-over-military-deployments>. See also ‘Coalition warns against requiring parliamentary vote to commit Australia to war’, *Guardian* (4 October 2022), available at <https://www.theguardian.com/australia-news/2022/oct/05/coalition-warns-against-requiring-parliamentary-vote-to-commit-australia-to-war>.

115 Australian Government, ‘Australian Government response to the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into international armed conflict decision making’, August 2023, available at https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Armedconflict/Government_Response [accessed 3 Dec 2023].

116 Act on Military Crisis Management (211/2006), Section 2(1), available at <https://finlex.fi/en/laki/kaannokset/2006/en20060211.pdf> [accessed 3 Dec 2023].

submitting its proposal, consult Parliament by providing it with a report on the matter. If the proposal concerns the assignment of no more than ten persons to military crisis management duties, the government must provide a report on the matter to Parliament's Foreign Affairs Committee before submitting its proposal.¹¹⁷ If plans are made for significant changes to the duties assigned to a Finnish crisis management force during the course of an operation, the government must consult Parliament or Parliament's Foreign Affairs Committee.¹¹⁸ In *Norway*, deployment of armed forces is the prerogative of the executive. While in principle there is an exception for missions when a major part of the country's armed forces would be sent abroad parliamentary approval would be required, this is a rather a theoretical condition and the government remains free to initiate military operations abroad as long as it does not violate the principle. That being said, there is a long-standing tradition of consultations between parliament and the government before the deployment of troops. In cases where *a priori* consultation is not possible due to the urgency of the situation, they will consult at the earliest opportunity. It is a long-term practice that the government seeks the parliament's informal approval for military operations abroad, by consulting the parliament's so called Enlarged Committee on Foreign Affairs and Defence. This committee consists of the ordinary members of the Standing Committee on Foreign Affairs and Defence, the President of the Storting and the chairs of the parliamentary party groups.¹¹⁹ This consultation requirement is not incorporated into the constitution and is not binding.

It follows that practice regarding the notification and consultation requirement is diverse among different countries. What is important is that the governmental notification to the parliament includes sufficient information to enable subsequent parliamentary oversight of military deployment and, if applicable, enables the parliament or relevant parliamentary body to hold an informed debate. Retaining the option for holding parliamentary debate on the matter is also a good practice which allows debates to be held in cases of controversial operations. There the non-binding vote provides a signal to the executive on the general attitude towards deployment which may shape its subsequent decision-making. Last but not least, holding consultations between the legislative and executive directly prior to international deployment is a good practice which allows for cooperation between the two bodies, even if it is not mandated in legislation.

3. Budgetary Powers

Parliamentary control over the military budget involves the legislative branch's authority to authorize, oversee, and allocate funds for national defence. This control mechanism ensures that the military budget aligns with national priorities and that taxpayers' resources are used effectively in maintaining a strong defence while respecting democratic principles.

117 *Ibid.*, Section 3(1)

118 *Ibid.*, Section 3(2)

119 Feedback from the secretary of Norway's delegation to the NATO Parliamentary Assembly, on file with the author.

The Venice Commission in its 2008 report has identified three types of Parliaments¹²⁰:

- **the budget-making parliaments** which have the capacity to amend or reject budget proposals and the capacity to formulate alternative budget proposals (for example, in *the USA*).
- **the budget-influencing parliaments** which can amend or reject the budget without putting forward their own proposals (the most common type in Europe, found, for instance in *Germany, Denmark, and the Netherlands*).
- **the parliaments with little say on budget formulation**, which may reduce existing items, but not include new ones nor increase the number of items. Traditionally, they give their consent to the defence budget as a global figure and individual amendments are not easily achieved (Examples here include *Canada and Australia*).

Feedback from the national parliaments to the DCAF questionnaire confirms that many Parliaments can amend or reject the budget. But their power to provide concrete proposals is limited. For example, in *the UK*, Parliament approves the overall budget for each branch of the armed forces, but it does not control how to allocate the budget and can, therefore, not control expenditure on specific military operations.¹²¹ However, there are also quite a few examples of budget-making parliaments. For example, in *Belgium* the state budget, including budget allocations for National Defence. This is not only approved by the Parliament, but the Members of the Parliament may also propose amendments to budgetary allocations.¹²² Similarly, in *Hungary*, prior to the parliamentary decision, the Committee on Defence and Law Enforcement has the can submit amendments to the defence chapter of the draft budget of Hungary.¹²³ In *France*, 'the budgetary procedure gives Parliament powers of control over the deployment of forces abroad.'¹²⁴ In *Montenegro*, the Committee on Security and Defence gives opinions, proposals and suggestions during the drafting of the part of the budget that refers to the area of security and defence. In *Sweden*, while deciding on the budget, the Parliament sets an expenditure framework, specifying the maximum limit for expenditure in each area, including for the international deployment of the armed forces.¹²⁵

Parliaments approve funds for various kinds of military operations which form a part of the defence budget. In *Germany* the Bundestag determines the defence budget and its internal

120 European Commission for Democracy through Law (Venice Commission), 'Report on the Democratic Control of the Armed Forces', (2008), 6, available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2008\)004-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)004-e). [accessed 3 Dec 2023].

121 Response to the questionnaire, provided by the UK.

122 Response to the questionnaire, provided by Belgium.

123 Response to the questionnaire, provided by Hungary.

124 Response to the questionnaire, provided by France.

125 Response to the questionnaire, provided by Sweden.

distribution, thereby having power over expenditure for military operations¹²⁶. In *Austria* different missions are normally not budgeted in separate line items, but the Federal Government approves all missions individually and informs the Main Committee of the National Council which has to agree to the mission.¹²⁷ In *Hungary* the Committee on Defence and Law Enforcement scrutinises and submits amendments to the defence chapter of the draft central budget of Hungary prior to the parliamentary decision. In addition, the Committee may also discuss the allocation and expenditure side of the budget as a separate agenda item for mission operations.¹²⁸ In *France*, if troop commitments for an international mission gives rise to modifications in the distribution of appropriation between various sections of the budget that exceeds simple management limits, parliamentary must approve the amendment of the budget law. In addition, the standing committee of the National Assembly and the Senate in charge of defence monitor and control the application of military programming.¹²⁹

Quite often, parliaments get to vote on the annual defence budget in general, but not on the separate defence expenditure lines. Hence their influence is limited. However, if the government requests additional resources for the military operations abroad, parliaments take on significant power (the decision whether or not to allocate these extra financial resources). Considering that military activities tend to be expensive; parliaments can influence military actions by making use of their 'power of the purse'.¹³⁰ For example, in 2015 *the USA* decided to cut \$78 billion in defence spending over five years, including a reduction of up to 47,000 troops, in order to trim the government's growing budget deficit.¹³¹ In *Austria*, *ad hoc* funding is an exception and only possible in the form of a supplementary budget which has to be approved by the National Council¹³². In *Norway*, there is a special item in the defence budget concerning military operations abroad, and if the government needs more funds for such operations, they need parliamentary approval.¹³³

Parliamentary involvement in the budgetary process does not end with the adoption of the budget, as afterwards parliaments conduct their oversight function by auditing the allocated budgets. In the *ex-post* oversight of the budget, Parliaments are assisted by an independent institution, a national audit office (sometimes called the Auditor General, National Audit Office, Budget Office

126 Response to the questionnaire, provided by Germany.

127 Response to the questionnaire, provided by Austria.

128 Response to the questionnaire, provided by Hungary.

129 Response to the questionnaire, provided by France.

130 S. Dieterich, H. Hummel, and S. Marschall, *Strengthening Parliamentary 'War Powers' in Europe: Lessons from 25 National Parliaments* (Geneva, Policy Paper - No 27. Geneva Centre for DCAF, 2010), 8, available at <https://www.dcaf.ch/sites/default/files/publications/documents/PP27.pdf> [accessed 3 Dec 2023]

131 For more details see 'U.S. aims to cut defense budget, slash troops', *Reuters* (7 Jan 2011), available at <https://www.reuters.com/article/pentagon-cuts-idUKN0612674220110107/> [accessed 3 Dec 2023].

132 Response to the questionnaire, provided by Austria.

133 Response to the questionnaire, provided by Norway.

or the Chamber of Account), that undertakes the detailed and professional financial audit of all government departments.¹³⁴ Governments are obliged to present their annual reports that must include the detailed list of total expenditures. These reports can have an influence on the Parliament's decision for the subsequent year's budget allocations (provided that Parliament has the power to propose amendments to the budget). For example, in *Canada* Parliament's Senate and House of Commons defence committees review the spending estimates of Canada's Defence Portfolio. These are made in such a way that they can scrutinize the government's expenditure for military operations. In *France* the Minister responsible for the armed forces twice yearly transmits to the permanent committees of the National Assembly and the Senate responsible for defence, as well as to the permanent committees responsible for finance, a report on the execution of military programming. Before 30 June of each year the Minister presents to the presidents of the permanent committees of the National Assembly and the Senate in charge of defence the stakes and the main evolutions of budgetary programming within the ministry.

4. Control Powers

Parliaments' involvement and responsibility do not end with the authorisation of military deployments. The practice of most States under review confirms this and control powers can be exercised during an ongoing operation and in post-operational oversight. This includes the constant monitoring of the activities of other institutions in international operations at any stage and has become, in the case of some countries, one of the most prominent parliamentary functions. The extent of parliamentary involvement after authorisation (or deployment without formal parliamentary approval) varies considerably from case to case. Domestic laws may oblige the executive to regularly inform parliament about ongoing military operations. This obligation together with the right of parliaments to request relevant information constitutes an important element of democratic accountability for military deployments. For example, Article 18 of the *Spanish* Organic Act 5/2005 on National Defence sets forth that the government shall regularly inform, within a time limit that shall in no case exceed one year, the Congress of Deputies on the evolution of the operations of armed forces abroad. In *Italy*, *Austria* and *Germany*, the executive must regularly report to parliaments on ongoing military missions. The information to be provided to parliaments may concern geographic, temporal, and material dimensions of military operations. Reports presented by the respective governments must contain information that is sufficient for a parliamentary assessment of the situation.

After deployment, parliaments maintain their prerogative to influence the course of military action by using the tools of general parliamentary oversight. Parliamentary oversight takes place on different levels – at the committee level and the general parliamentary/plenary level. The standing parliamentary committees play a key role in overseeing military operations and ensuring that the executive is accountable. The practice of countries under review varies. For example, the Foreign Affairs Committee and the Defence Committee play a central role in overseeing military operations

¹³⁴ European Commission for Democracy through Law (Venice Commission), 'Report on the Democratic Control of the Armed Forces' (2008), available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2008\)004-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)004-e) [accessed 3 Dec 2023].

in *Germany*. In *Portugal*, where no prior parliamentary approval of military operations is required, the Defence Committee monitors the conduct of military operations abroad based on information provided by the government. Defence committees also play an important role in other countries reviewed. However, their role and involvement in monitoring military operations vary considerably from case to case. Moreover, there are also significant differences between countries in terms of the resources and expertise available to defence committees.

If certain constitutional duties are violated, a parliament can hold the minister of defence accountable for it. In its report, the Venice Commission has distinguished political and legal ministerial responsibility, highlighting that it is a complex and often sensitive issue and that there is great diversity in how this is regulated under national constitutional law in various countries. Legal ministerial responsibility does not fall under the scope of the current publication. However, 'political' ministerial responsibility, as described by the Venice Commission, covers all ways in which a government minister may be 'held responsible' for political actions, ranging from mere criticism in parliament or in the media, to failure at elections, to the results of more formalised procedures of parliamentary scrutiny and oversight. These include question time, committee hearings, special committees of inquiry etc. In parliamentary systems the ultimate form of political responsibility for ministers is the vote of no-confidence, which obliges the minister (and sometimes the whole cabinet) to resign.¹³⁵ In *Austria*, a parliament can hold the minister of defence accountable for military operations, express a vote of no confidence, or impeach the respective public office holder before the Constitutional Court.

A parliament's right to participate in the decision-making process can be challenged or defended not only politically, but also through legal and judicial means. In *Germany*, there is a special procedure that allows the parliamentary groups to file a complaint with the FCC alleging that the competencies of the parliament have been violated by the executive branch. The FCC may examine whether parliament's authority to authorise military operations has been observed by the government in a given case.¹³⁶ This procedure has been used several times by the political opposition to question the constitutionality of the government's actions.

4.1 Parliamentary tools for the oversight of ongoing operations

Parliamentary Hearings

Military deployments can be subject to oversight as part of the parliamentary hearing of a responsible (defence) minister, who has primary responsibility for the effective implementation of the mission. In some cases, parliaments can question the high-ranking military commanders in the framework of a general review (*Spain*) or a special investigation into military operations. Through hearings, legislators can assess the government's overall defence and foreign policy objectives.

¹³⁵ European Commission for Democracy through Law (Venice Commission), *Report on relationship between political and criminal ministerial responsibility* – CDL AD(2013)001 available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)001-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)001-e) [accessed 3 Dec 2023].

¹³⁶ Art. 93 (1) no. 1 of the Basic Law, §§ 13 no. 5, 63 et seq. of the Federal Constitutional Court Act.

They can question officials about the rationale for specific deployments, the expected outcomes, and the strategies in place to achieve those goals.

The specific process for conducting parliamentary hearings on military deployments vary from one country to another, depending on the nation's legislative structure and procedures. Information regarding military operations is normally presented by the Supreme Commander of the Armed Forces, or by the Chief of Joint Operations. For example, in *Portugal*, the Parliamentary Committee on Defence conducts hearings of the high-ranking military commanders leading the military operation. This can be held by deliberation of the Committee or at the request of a parliamentary group (of political parties). In *Sweden* members of parliament may also request the submission of evidence from high-ranking military commanders. In *Canada*, parliamentary committees can invite, or even compel, current and former military personnel, including high-ranking officials of the armed forces, to provide testimony or an oral briefing on military deployments and operations abroad. For instance, as part of its 2018 study on Canada's Involvement in NATO, the House of Commons Standing Committee on National Defence heard from several current and former military officials.¹³⁷

It is worth noting that parliamentary hearings on military deployments can be politically sensitive, as they often involve matters of national security. Balancing the need for transparency and accountability with the imperative to protect sensitive information is a challenge that legislators and government officials must navigate during these hearings. For example, in the *US* the House Foreign Affairs Committee (HFAC) held a public hearing on Authorizations for the Use of Military Force (AUMFs) on 28 September 2023 that was available by live webcast on the Committee website.¹³⁸ At the same time, the House Intelligence Committee usually conducts closed, classified hearings to review sensitive intelligence related to military missions and national security: for instance, hearings on counterterrorism operations and classified briefings on military actions in certain regions. The Chilcot Inquiry was a high-profile public inquiry in *the UK* to examine the country's involvement in the Iraq War. It involved extensive public hearings where government officials, military leaders, and experts provided testimony on the decision to go to war and its aftermath.¹³⁹ This distinction between public and closed hearings allows governments to balance the need for public oversight with the imperative to protect sensitive information critical to national security.

137 One of them was retired Lieutenant General Bouchard, who previously served as the NATO Commander of Operation UNIFIED PROTECTOR in 2011, 'Canada's Involvement in NATO' (Report and Government Response) 2018, available at <https://www.ourcommons.ca/Committees/en/NDDN/StudyActivity?studyActivityId=9467195> [accessed 3 Dec 2023].

138 'Reclaiming Congress's Article I Powers: Counterterrorism AUMF Reform' (28 Sep 2023), <https://foreignaffairs.house.gov/hearing/reclaiming-congresss-article-i-powers-counterterrorism-aumf-reform/> [accessed 3 Dec 2023].

139 The Chilcot Inquiry, House of Commons Library (1 Jul 2016) <https://commonslibrary.parliament.uk/research-briefings/sn06215/> [accessed 3 Dec 2023].

Parliamentary Investigations

According to the Venice Commission, parliaments can exercise oversight through various means, among others accountability on the basis of reports from the Board of Auditors about the implementation of the budget; and in case where there is a suspicion that serious misconduct may have occurred, parliaments have the authority to hold a formal inquiry.¹⁴⁰

The parliamentary committees that have the power to investigate or hold a hearing on military operations include the defence and foreign affairs committees, as well as some other committees (such as the Standing Committee on Scrutiny and Constitutional Affairs in *Norway*). In *the US*, Senate Committee on Armed Services conducts hearings and investigations into various aspects of U.S. military operations. For example, it has investigated the treatment of detainees in US custody.¹⁴¹ In some cases, general and specialised parliamentary bodies may cooperate to jointly investigate military missions.

A parliament can also establish special investigatory mechanisms to look into alleged human rights abuses or other serious violations committed in the course of military operations. In some cases, the defence committees fulfil this function. In *Germany*, the Defence Committee can be constituted as a committee of inquiry. For example, the Defence Committee was set up as a committee of inquiry to investigate allegations of abuse by senior German military commanders in an incident that occurred near the Afghan city of Kunduz in September 2009 and that resulted in significant civilian casualties.¹⁴²

According to Art. 82 of the Constitution of *Italy*, each house of parliament may conduct inquiries on matters of public interest. The parliament can designate a committee that represents the proportionality of existing parliamentary groups. A committee of inquiry may conduct investigations and examinations with the same power as the judiciary. Parliamentary inquiries were proposed to investigate the actions of the Italian armed forces deployed as a part of the UN peacekeeping

mission 'Restore Hope' in Somalia. In question was their compliance with human rights and international humanitarian law.

According to Art. 76 of the Spanish Constitution, the Chambers may appoint fact-finding committees on any matter of public interest, including military deployments. Similarly, in the *Netherlands*,

140 European Commission for Democracy through Law (Venice Commission), 'Report on the Democratic Control of the Armed Forces' (2008), available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2008\)004-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)004-e) [accessed 3 Dec 2023].

141 Committee on Armed Services United States Senate, 'Inquiry into the Treatment of Detainees in U.S. Custody', Report, 110th Congress, 2nd Session (Nov 20, 2008) <https://www.nytimes.com/interactive/projects/documents/report-by-the-senate-armed-services-committee-on-detainee-treatment> [accessed 3 Dec 2023]

142 Deutscher Bundestag. N.d. 'Verteidigungsausschuss als 1. Untersuchungsausschuss der 17. Wahlperiode [Kunduz] 17. Wahlperiode', available at <https://dip.bundestag.de/vorgang/.../39492>. [accessed 3 Dec 2023].

parliament can establish investigatory mechanisms to look into human rights violations committed in the course of a military operation.¹⁴³

The case of Canada. Canadian troops began transferring detainees to Afghan authorities in late 2005.¹⁴⁴ On 18 December 2005, an Arrangement for the Transfer of Detainees between the Canadian Forces and the Ministry of Defence of the Islamic Republic of Afghanistan was signed. The arrangement established procedures in the event of a transfer, from the custody of the Canadian Forces to the custody of any detention facility operated by the Islamic Republic of Afghanistan of any detainee in the temporary custody of Canadian Forces in Afghanistan¹⁴⁵. The participants committed to treating detainees in accordance with the standards set out in the Third Geneva Convention. Eventually, faced with newspaper stories and other allegations of abuse in early 2007, the Canadian military temporarily suspended transfers.¹⁴⁶ On 3 May 2007 an Arrangement for the transfer of detainees between the Government of Canada and the Government of the Islamic Republic of Afghanistan was signed, which introduced a monitoring mechanism for detainees transferred to the Afghan authorities. Nevertheless, allegations of abuse and torture continued, and Ottawa decided to stop transfers.¹⁴⁷ A House of Commons special committee was established, and the Military Police Complaints Commission opened an inquiry into whether Canadian military police should have started criminal enquiries against members of Canadian forces involved in transfers in Afghanistan.¹⁴⁸ NATO, in a sweeping July 2011 directive, ordered all units to cease handovers to the notorious Afghan intelligence service, the National Directorate of Security, and to the Afghan National Police and the Afghan Border Police¹⁴⁹. All in all, the case of Canada demonstrates the need to establish robust monitoring regimes for the detainees transferred to local authorities and to ensure regular monitoring.

143 For example, on 17 June, 2022, the government commissioned NIOD Institute for War, Holocaust and Genocide Studies and the Netherlands Institute for Military History to examine twenty years of Dutch deployment in Afghanistan.

144 David Ljunggren, 'Canada generals deny ignoring Afghan abuse warning,' *Reuters* (25 Nov 2009), <https://www.reuters.com/article/us-afghan-idUSTRE5AO4WK20091125>.

145 'Afghanistan/Canada, Agreements on the Transfer of Detainees,' ICRC, <https://casebook.icrc.org/case-study/afghanistancanada-agreements-transfer-detainees> [accessed 3 Dec 2023].

146 David Ljunggren, 'Canada generals deny ignoring Afghan abuse warning,' *Reuters* (24 Nov 2009), <https://www.reuters.com/article/us-afghan-idUSTRE5AO4WK20091125>.

147 Allan Woods, 'Canada halts transfer of Afghan detainees,' *Toronto Star*, (24 Jan, 2008), https://www.thestar.com/news/canada/2008/01/24/canada_halts_transfer_of_afghan_detainees.html [accessed 3 Dec 2023].

148 Marco Sassòli and Marie-Louise Tougas, 'International Law Issues Raised by the Transfer of Detainees by Canadian Forces in Afghanistan,' *McGill Law Journal* 56, (2011), 959-1010.

149 'NATO order ended Canadian transfer of Afghan prisoners,' *The Canadian Press* (11 June, 2012). <https://www.cbc.ca/news/politics/nato-order-ended-canadian-transfer-of-afghan-prisoners-1.1263740> [accessed 3 Dec 2023].

Field visits

Field visits serve as potent instruments of oversight, providing members of parliament with a direct avenue to gather first-hand insights into the operations. Unlike parliamentary hearings, field visits enable lawmakers to engage with a broader spectrum of military and civilian personnel, scrutinize operational premises (for instance detention facilities in the conflict zones), and review files. These visits are invaluable opportunities for parliamentarians to grasp the realities of the operations under their purview. For those being overseen, field visits present a unique chance to elucidate the challenges inherent in their work, establish trust with the oversight body, and advocate for budgetary and legislative support from the parliament.

However, the dynamic nature of field visits poses challenges. Unlike hearings, where interactions occur within the confines of the committee's premises, field visits necessitate the exploration of unfamiliar territories. The risk of losing focus and deviating from oversight objectives is elevated. Therefore, reliance on expert staff support becomes paramount during field visits, distinguishing them from other oversight activities. Clear procedures are imperative for the success of field visits, and the Committee Rules of Procedure should meticulously outline the responsibilities and steps for their implementation. This clarity is essential for efficient decision-making across all stages of a field visit. Monitoring field visits involves three primary phases: preparation, implementation, and the post-visit follow-up. The nature of each stage differs, contingent upon whether the visit is a proactive oversight activity, announced well in advance and potentially included in the committee's annual program, or a reactive response to investigate specific allegations or incidents. For example, in 2009, Lithuanian lawmakers visited the Provincial Reconstruction Team in Afghanistan led by the Lithuanian Armed Forces to make sure that allocated financial sources were being spent in line with identified needs and budget.

Cooperation with Internal and External Oversight Bodies

Different means of oversight may complement each other to reinforce parliamentary efforts to exercise effective oversight over military missions. Generally, the practice shows that oversight at the committee level is essential for ensuring the accountability of civilian and military decision-makers in military missions abroad. To make such oversight possible, the committees must have appropriate legal powers. But they must also have considerable human and financial resources.

Parliamentary committees may cooperate with other supervisory bodies to ensure accountability. The form and modalities of this cooperation vary from case to case. In *Austria*, the defence committees of the individual parliamentary chambers are in regular exchange with the Parliamentary Federal Armed Forces Commission, which can be called upon by military personnel on various issues of army life and human rights compliance.¹⁵⁰ The Ombudsperson of the *Norwegian* Armed Forces reports to the Standing Committee on Constitutional Affairs. The Parliamentary Commissioner of the *German* Armed Forces also reports to parliament and

¹⁵⁰ Parlamentarische Bundesheerkommission, for more details on the competencies of the Board see <https://www.parlament.gv.at/WWER/PBK/INFOS/> [accessed 3 Dec 2023].

discusses several issues raised in his/her annual report to parliament. It is an important mechanism for ensuring parliamentary oversight. In *Canada*, the Senate and House of Commons committees regularly invite a wide range of individuals to appear before them to provide witness testimony. These individuals can include representatives from external oversight bodies, such as the National Defence and Canadian Armed Forces Ombudsman,¹⁵¹ the Office of the Auditor General of Canada,¹⁵² and the Office of Parliamentary Budget Officer.¹⁵³ In *Sweden*, the Swedish National Audit Office audits all government finances, including the defence sector and the Swedish Armed Forces, as part of parliamentary oversight. The office is an independent body and conducts both performance and financial audits.¹⁵⁴ In *Poland*, any Committee of the Parliament may request that the Supreme Audit Office carry out an audit, specifying ‘the purpose and scope of the requested audit’ and indicating ‘the entity subject to an audit.’¹⁵⁵ In *Portugal*, Parliament elects two representatives to the High Council for National Defence, a specific consultative body for matters relating to National Defence and the organization, operation, and discipline of the armed forces, charged with the approval of the specific missions of the armed forces and the system or forces necessary for their fulfilment.¹⁵⁶

5. Challenges to Parliamentary Control and Oversight of Military Operations

The ability of parliaments to control and exercise democratic oversight over deployments for international operations is determined by the power granted to them under domestic legislation. Purely granting parliaments legal power over international deployment is nevertheless not sufficient in ensuring that democratic oversight will be effectively carried out. Effective and meaningful oversight includes the ability to gather the information in questions and the power to use that

151 For more details see <https://www.canada.ca/en/ombudsman-national-defence-forces.html> [accessed 3 Dec 2023].

152 More details are available at https://www.oag-bvg.gc.ca/internet/english/admin_e_41.html [accessed 3 Dec 2023].

153 For more information see <https://www.pbo-dpb.ca/en> [accessed 3 Dec 2023].

154 See the latest Swedish NAO report: ‘Building national defence capabilities – central government’s efforts to strengthen army forces (RiR 2021:23)’, 7 September 2021, available at <https://www.riksrevisionen.se/en/audit-reports/audit-reports/2021/building-national-defence-capabilities---central-government-efforts-to-strengthen-army-forces.html> [accessed 3 Dec 2023]. It examines ‘whether the Government and the Swedish Armed Forces have carried out effective work to increase the operational capacity of the army forces during the 2016-2020 defence period.’ One of the questions addressed in this report was whether the Government’s policy in relation to the deployment of the armed forces has been expedient.

155 Response to the questionnaire, provided by Poland.

156 Response to the questionnaire, provided by Portugal.

information in a way that impacts the military, the executive or both.¹⁵⁷ As the international security environment is becoming increasingly complex parliaments may lack the appropriate tools or resources to conduct this role effectively. It is important to keep in mind various challenges parliaments may face in this regard and take proactive steps to address them both systematically and when the specific need arises.

The challenges to parliamentary control and the oversight of military operations include:

- **Lack of access to information:** Balancing the need for transparency and accountability with the imperative of national security is a constant challenge. Some military operations require a high degree of secrecy, making it difficult for parliament to exercise effective oversight. Due to the confidential nature of many operations parliaments may not be provided with adequate information for effectively authorizing and overseeing international deployment on a case-by-case basis. Laws on access to classified information are crucial in this regard as they can serve to empower members of oversight committees or MPs in general to better assess the details and context of the ongoing operation, as well as its compliance with norms of international law. One important issue that has to be kept in mind with parliamentary oversight, is security clearance, as all above mentioned procedures (hearings, investigations etc) usually involve access to classifieds or sensitive information. When it comes to access to secret military information, the security clearance (or vetting) of members of parliament, varies from country to country and depends on the specific security protocols and requirements. In many countries, members of parliament are not automatically granted military security clearances by virtue of their elected position. Instead, they may need to apply for and undergo a security clearance process if their roles or responsibilities require access to classified or sensitive military information. This is also called the 'legalistic approach' (*UK, Hungary, Latvia*). Another common approach in Euro-Atlantic countries, is the 'informal approach,' when there is no requirement of formal security vetting for MPs for membership of parliamentary committees responsible for the oversight of intelligence services (*Bulgaria, Croatia, Estonia*).¹⁵⁸ Sometimes committees or members of parliament are granted temporary or limited security clearances to access classified information relevant to their inquiries. This allows them to fulfil their oversight and accountability roles effectively while respecting the need for national security and the protection of sensitive information. This is true, for example, in *Australia*.¹⁵⁹ Despite the growing body of regional and international normative standards on access to and the handling of information by oversight bodies, parliaments across the world continue to face a number of challenges and

157 David Auerswald, Philippe Lagassé and Stephen M Saideman, 'Some Assembly Required: Explaining Variations in Legislative Oversight over the Armed Forces', *Foreign Policy Analysis*19 (2023), available at <https://academic.oup.com/fpa/article/19/1/orac034/6969126> [accessed 3 Dec 2023].

158 Thematic Brief on Vetting of the Members of Parliament (Geneva: DCAF, 2021), available at <https://www.dcaf.ch/sites/default/files/publications/documents/VettingMembersParliaments.pdf> [accessed 3 Dec 2023].

159 Australian Security Intelligence Organisation Amendment Bill 2023 (May 2023), https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd2223a/23bd073 [accessed 3 Dec 2023].

risks with respect to accessing classified information.¹⁶⁰ For example, in *Canada*, Members of Parliament (MPs) (and even members of the Defence Committee) do not have security clearances, which would make it difficult for them to know what questions to ask or what decisions to make, were they ever to be given power over conflict decisions.¹⁶¹ On the contrary, in *Germany*, the members of the Defence Committee have security clearance and have wide powers to access all the information they need for effective oversight.

- **Time constraints:** Due to parliaments' busy agendas issues, and the need for quick action when it comes to international deployment, parliaments may be less flexible with in-depth discussions on upcoming operations. Parliamentary debates on this matter may even be rather superficial. The cases of urgency or emergency generally exempt the need for parliamentary approval, which must usually be provided *ex post facto*. The lack of time to conduct effective oversight also applies to ongoing operations where parliaments or specific parliamentary oversight committees are overstretched and where they may have limited resources to conduct in-depth assessment, hearings etc.: see below on lack of human resources and expertise. For example, for years, there has been a debate in Germany as to whether parliamentary scrutiny impairs the reliability of the Federal Republic, particularly in its role as a NATO ally. A commission (the 'Rühe-Kommission') , which also dealt with this issue, submitted a final report to parliament in 2015. The commission, found, among other matters, that there was no reason to limit parliamentary powers. They argued that the German parliament does not slow-down decision-making in urgent cases (as was implied), giving the example of the Syrian mission mandate, which took four days from submission to final vote. In relation to this report and its findings, some observers have argued that it had not reviewed future design of the parliamentary prerogative and that 'the German Bundestag should have a look at the parliaments of other countries and consider alternative models of parliamentary participation.'
- **Lack of human resources and expertise:** Parliaments may not be best placed to control and oversee military deployments on foreign soil due to their lack of capacity and a concurrent lack of professional staff support. Effective oversight requires considerable human and financial resources which parliaments or specific oversight committees often do not have. This is becoming problematic in light of the increasing complex number of technical, military, legal or other considerations as well as technological developments (e.g., the use of drones, cyber security etc). Individual members of parliament may simply not have the specific technical knowledge to assess the implications and understand the nuances of the operations and their context.
- **Technological challenges:** While research has not touched significantly on modern technology and artificial intelligence in military operations, technological advancements continue to reshape the landscape of warfare. The need for robust and informed parliamentary

160 N. Yildirim Schierkolk, *Parliamentary Access to Classified Information*, *An analysis of the responses to the NATO Parliamentary Assembly* (Geneva: DCAF, 2018), Geneva [accessed 3 Dec 2023].

161 S. M. Saideman, *Afghanistan as a Test of Canadian Politics: What Did We Learn from the Experience?*, *The Afghanistan Papers 10* (CIGI: 2012)., available at https://www.cigionline.org/static/documents/afghanistan_paper_10.pdf [accessed 3 Dec 2023].

scrutiny becomes even more crucial. The war in Ukraine demonstrates that modern military operations often rely on sophisticated technologies and AI-driven systems. These technologies can be complex and difficult to comprehend for those without technical expertise. Parliamentary oversight ensures that lawmakers have a clear understanding of the capabilities, limitations, and potential risks associated with these technologies. This understanding is essential for making informed decisions and for asking relevant questions. The use of AI and advanced technologies in military operations raises ethical and moral concerns. Decisions regarding targeting, civilian protection, and the potential for autonomous decision-making are critical. AI systems often make decisions based on complex algorithms. If these systems are involved in critical military decisions, it becomes crucial to determine who is responsible if something goes wrong. Parliamentary oversight ensures that accountability mechanisms are in place to hold both human operators and AI systems responsible for their actions. Military operations involving AI must adhere to international laws and norms, including those related to the use of force, human rights, and humanitarian considerations. Parliamentary oversight ensures that these operations are conducted within legal and ethical boundaries. Parliamentary oversight over military operations involving modern technology and AI is indispensable for ensuring that these operations are conducted responsibly, ethically, and in accordance with democratic values and international norms. It helps bridge the gap between technological advancements and effective governance, ensuring that the benefits of innovation are harnessed, while the risks are managed.

- **Lack of political motivation:** In light of limited resources, parliaments may lack interest and incentives to effectively exercise their legally anchored powers to oversee military deployments abroad. Motivation can be limited especially when said operations are uncontroversial and the public debate or media coverage relating to them is limited, they are small in scale, or they are prolonged and periodical authorization has become a matter of business as usual. Limited public awareness and interest in overseas military operations, can reduce pressure on parliament to scrutinize these activities rigorously. This is not always negative as it can help streamline the process of authorization of operations. However, it can also develop into a pattern of limited or shallow oversight where the parliament, or respective oversight committees stop exercising their oversight functions with respect to specific operations and, instead, focus on other priority areas. The composition, structure and party affiliation of parliamentary defence committees may be instruments in mobilising interest and effort to effectively oversee military operations. Opposition parties must be able to shape the agenda of defence committees in national parliaments. They need to be able to ensure that committee members have not only the authority (including security clearance and access to classified information), but also the willingness to oversee military operations abroad. If the ruling party is the only political force controlling a committee's agenda, this may compromise the effectiveness and objectivity of oversight. It should be noted that lack of political motivation is not the sole concern, and, on the contrary, parliamentary oversight can become politicized, with different parties using military operations for political gain, rather than focusing on their effectiveness and legality. Parliament's power might be used to achieve political ends.

Concluding Remarks

Parliamentary oversight for military operations is a crucial aspect of a well-functioning democratic society. It serves as a cornerstone for accountability, transparency, and the responsible use of military power. This oversight ensures that the government's actions in matters of national security are consistent with the principles of democracy and the rule of law. There are several reasons for highlighting the importance of parliamentary oversight over military operations.

First, in a democratic system, the separation of powers between the executive, legislative, and judicial branches is essential for preventing any one branch from becoming too powerful. Parliamentary oversight ensures that the executive, which controls the military, remains accountable to the legislature. This system of checks and balances helps prevent abuses of power and unauthorized military actions. Effective oversight mechanisms require governments to provide clear justifications for their military actions, including the objectives, strategies, and potential risks. This transparency fosters informed public debate and allows citizens to evaluate whether military interventions are truly necessary and in the national interest. A robust system of parliamentary oversight prevents leaders from misusing military forces for personal or political gain. Without proper oversight, there is a risk that military operations could be launched without due consideration to their necessity, legality, or potential consequences.

Second, military operations, especially in conflict zones, have consequences for civilians and human rights. Parliamentary oversight ensures that military actions are conducted in a manner consistent with international humanitarian law and human rights standards. It helps prevent atrocities, minimize collateral damage, and ensure that civilian populations are not subjected to unnecessary harm. Moreover, military operations must adhere to both domestic and international laws. Parliamentary oversight ensures that military actions are carried out within the framework of the law, preventing violations of domestic statutes and international agreements.

Third, military operations often require significant financial resources. Parliamentary oversight ensures that military budgets are allocated appropriately, and that the funds are used efficiently. This prevents wastage and corruption, ensuring that taxpayer money is being spent for legitimate national security purposes.

Fourth, military operations have far-reaching strategic implications. Parliamentary oversight provides a platform for in-depth discussions and debates about the goals, risks, and long-term consequences of military actions. This obliges them to consider a broader range of perspectives and helps them make well-informed decisions. They can evolve rapidly due to changing geopolitical situations, technological advancements, and unexpected developments. Parliamentary oversight enables flexible responses and adjustments to military strategies, ensuring that the government can address new challenges effectively.

Legislation should be designed to allow for flexibility in responding to different types of military operations and evolving security challenges. But at the same time legislation should guarantee various oversight instruments and procedures ensuring that military operations are carried out responsibly and in the best interests of the country. Recommendations can be divided into three parts: prior, during and post-operations. It is worth considering the role of modern technologies. All parts represent a commitment to transparent governance, accountability, and the protection of the rule of law, making it an indispensable component of a military operation.





Recommendations

1. General Recommendations

This study has identified several overarching principles and good practices when it comes to a parliament's role in overseeing and controlling international operations which apply through the entire cycle of deployment. These correspond to the previously identified challenges to the exercise of parliamentary powers:

1. Ensure that the legal framework provides a sufficient level of detail when it comes to powers of parliamentary oversight.
2. The procedures governing the authorization and oversight of international deployments should be flexible enough to allow the parliament or relevant parliamentary committees adequate time for thorough scrutiny. A mechanism for fast decision-making process should be considered, while ensuring a clear role of parliament and robust oversight over these processes.
3. Parliaments or relevant parliamentary committees should be provided with adequate human and financial resources in order to properly conduct oversight and control over international operations.
4. Special consideration should be given to ensuring that subject-matter expertise, especially in light of new technologies employed in international operations, is available to lawmakers when exercising control and oversight.
5. Parliamentarians should be granted an appropriate level of security clearance in order to access classified information necessary for making decisions and for overseeing international deployment.
6. To ensure parliaments effectively exercise their powers with respect to deployment for international operations guidelines should be established. These should outline the minimum basic control and oversight activities which the parliament or the relevant committees should be expected to have with respect to each operation.

2. Pre-Operation Oversight

Military operations are complex actions. They require meticulous organization and planning. For a military operation to be successful, all the actors involved must be informed and cooperate. Therefore, intense discussion and planning between the national, regional and international levels necessarily occurs before a military operation is launched. Experts tend to claim that the effectiveness of parliamentary oversight in military operations hinges primarily on their very strong legislative authority. This entails the requirement for *ex ante* approval by the parliament for all military security decisions whenever there is a potential for military involvement in armed conflicts. This approval process, experts stress, must be conducted on a case-by-case basis, without any exceptions, regardless of the circumstances surrounding planned troop deployments, including those involving special forces. Furthermore, in an ideal scenario that adheres to best practices, parliamentary *ex ante* approval should also encompass military transit, the use of national airspace, territorial waters and national infrastructure for military purposes, and the use of foreign military bases within the national territory in relation to any military force deployment.¹⁶² Experts often assert that the effectiveness of parliamentary oversight in military operations largely depends on robust legislative authority. But there is, too, an understanding that there are exceptions and that flexibility is necessary.

1. While planning is generally done by the executive, **the national parliament should be included in the discussion and organization of the operation.** A law on military deployments abroad is of great importance in this regard. This law should identify the types of operations a military force can participate in, the conditions for its involvement as well as the procedures and actors involved in executing the mission. This law would provide precise guidelines for parliament to assess its validity and determine its involvement in the activities related to the launch of the operation. It is important that the executive understands the interests of the citizens before it moves forward with anything involving military deployment. Good practice in this regard is to institutionalize, whether through law or convention, a consultation requirement. Through practice the parliament can provide much needed guidance to help sharpen governmental policy and decisions in such matters. Debate can also prevent possible divisions between the legislative and executives on their position in participating in specific international operations. In order for the parliament to thoroughly evaluate the justification for participation in international operations, information must be provided. Key details to be included include the geographical area of intervention, the operation's objectives and scope of activities, the legal foundation of an international operation, the composition of assets to be deployed (including the maximum number of personnel), the operation's duration, and the financial requirements (both for the upcoming year and the overall operation). To ensure a systematic approach for all deployments in international operations, the pertinent national legislation can explicitly list the information that must be provided to the parliament.
2. Legislation on deployment for international operations should list the types of deployment. Ideally, this should follow the norms of international law and reflect on national security policy.
3. Legislation regarding international deployment must clearly outline the decision-making process for authorizing participation in international operations. In instances where parliamentary

approval for international deployment is mandated, legislation should explicitly detail which entity is responsible for formulating the proposal. Additionally, it should: stipulate the timeframe within which the proposal must be presented to parliament; specify the deadline by which parliament is required to make a decision; identify the specific parliamentary body tasked with the decision-making process; and define the voting threshold necessary for approval. Furthermore, the legislation should provide clarity on whether the parliament retains the authority to revoke its decision at a later stage. In cases where parliamentary authorization is exempt, perhaps due to the limited scale of the operation, legislation should elucidate whether the parliament possesses the capacity to override the decision made by the government.

4. Parliament can also set various limits for military deployment in legislation, based on multiple factors including:
 - financial ceiling; troop limits; geographical restrictions; partners restrictions; type of operations; weapons restrictions; and mandate restrictions.
5. In terms of military efficiency, best practices certain smaller-scale operations might not need parliamentary approval. Justifications for such exemptions may encompass factors such as a limited number of deployed troops, a brief duration of deployment, the non-military nature of the operation, or the specific type of deployment (e.g., humanitarian assistance, ancillary non-military tasks, training, or ceremonial purposes). Additionally, if the deployment is part of an international agreement this can serve as grounds for exemption. Conversely, instances that warrant parliamentary authorization could include a significant number of personnel being deployed, an extended duration of the operation, high political relevance, or the absence of an existing obligation aligning with the state's expected contribution to the operation. These criteria can often be interlinked. For instance, an operation might not need parliamentary authorization if the operation is conducted within the parameters of an international agreement and does not exceed 60 days. In order to strengthen parliament's prerogative in this area, parliamentary authorization can be based on a silent procedure. Alternatively, national legislation can allow, in cases which do not *prima facie* require legislative authorization, for parliament to have the power to revoke governmental decisions. This applies to urgent or emergency cases when *ex ante* parliamentary veto power generally does not apply. In such cases, when deployment must take place immediately, *ex post facto* parliamentary authorization should be required.
6. The parliamentary control and oversight of international operations in cases when operations are extended, or when the mandate has changed should be specified in national legislation on deployment for international operations. The legislation should outline with what frequency parliamentary authorization is required. It should further mandate that parliament provides renewed authorization when the operation is to be extended or when its mandate substantively changes (especially when this implies the use of force). Silent procedure may be useful in ensuring efficiency in the process.
7. The parliamentary authority over budgetary aspects of operations should be well defined in the legislation concerning the pre-approval of specific budgets for planned military deployments. Authorizing parliaments to vote not only on the annual defense budget in general, but also on the separate defense expenditure lines, increases their influence and parliamentary oversight powers.

3. In Operation Oversight

Parliamentary oversight of military operations, as they happen, is a fundamental pillar of democratic governance and marks the responsible use of military power. Here are several reasons highlighting the importance of parliamentary oversight over military operations:

1. Military operations often require rapid and real-time decision-making. Parliamentary oversight ensures that lawmakers are informed promptly about the operation's progress, enabling them to provide valuable insights and, if necessary, approval. Therefore, legislation should provide the necessary instruments to legislators to promptly react to the evolving situations.
2. Legislation should equip lawmakers with tools to assess the legality and ethical implications of military operations as they unfold. This oversight helps prevent actions that might violate domestic laws or international agreements. Oversight ensures that military actions are conducted within the boundaries of established norms.
3. Military operations can carry significant risks, including the potential for civilian casualties, unintended escalation, and diplomatic fallout. Parliamentary oversight should allow lawmakers to evaluate such risks and to question the government's risk-mitigation strategies, leading to more thoughtful and informed decisions. Parliaments should be able to establish special investigatory mechanisms to look into alleged human rights abuses or other serious violations committed in the course of military operations. For this, robust whistleblower protection mechanisms are needed, in order to encourage individuals within the military and government to report any misconduct or irregularities related to overseas military operations.
4. Lawmakers can ensure that military operations adhere to humanitarian principles, minimize harm to civilians, and prioritize the protection of vulnerable populations. This oversight is especially important in conflict zones and areas with high civilian populations.
5. Under certain circumstances, lawmakers should be able to request and review intelligence information and evidence supporting the operation. It is important that they are granted the necessary security clearance. This scrutiny helps verify the validity of the government's claims and justifications for military actions.
6. It is very important that lawmakers can contribute to shaping the policy direction of ongoing military operations, influencing objectives, rules of engagement, and overall strategy. This involvement ensures that operations remain aligned with broader national security and diplomatic objectives.

7. Parliamentary oversight should help prevent the expansion of military operations beyond their intended scope. Lawmakers can question any deviations from original objectives, and they can hold the government accountable by keeping it focused on the mission. It is important to ensure that parliament has also the authority to approve any supplementary funding required for overseas military operations. This approval should be subject to parliamentary debate and scrutiny. In situations where military operations encounter unforeseen challenges or crises, parliamentary oversight enables rapid responses and informed decision-making, reducing the potential for errors. For this reason, parliament should demand regular reports and updates from the government and military leadership about the current situation and progress of the military operations. Parliaments should also demand explanations for any inconsistencies between the initial mission parameters and the reported results. This will ensure that the military operations are in line with the original objectives and that the government, and the military are accountable for their actions.

4. Post-Operation Oversight

Parliamentary oversight over military operations is essential not only during active operations, but also when operations are terminated or concluded. The post-operation phase is a critical period for reviewing the outcomes, assessing the impact, and ensuring accountability for decisions made during the course of the operation. Relevant legislation should envisage the role of parliamentary oversight in the post-operation phase. Below are the areas where a parliamentary role remains important after an operation is terminated:

1. After an operation concludes, it is vital to evaluate whether the initial objectives were achieved. Parliamentary oversight and legal acts should allow lawmakers to scrutinize whether the goals set for the operation were met, helping to determine the operation's overall success and whether the use of military force was justified.
2. Military operations can have wide-ranging consequences, both intended and unintended. Lawmakers need to assess the broader impact of the operation, including its effects on civilian populations, infrastructure, diplomatic relations, and regional stability. Parliamentary oversight ensures that these consequences are examined thoroughly.
3. Post-operation oversight provides an opportunity to identify lessons learned from the operation. Whether this concerns strategy, tactics, intelligence gathering, or technological implementation, these insights are invaluable for improving future military planning and decision-making. During an operation, decisions are made under high-pressure circumstances. Once the operation concludes, it is important to hold decision-makers accountable for their actions, especially if mistakes were made or if there were deviations from established protocols. Parliamentary oversight ensures that individuals responsible for the operation are held accountable for their decisions.

4. Military operations require significant financial resources. Post-operation oversight should ensure that the allocated budget has been used efficiently and effectively, preventing wastage or the misuse of taxpayer funds.
5. The insights gained from post-operation oversight can inform policy adjustments and changes in military doctrine. These adaptations ensure that the government remains prepared for future challenges and can make informed decisions based on past experiences.
6. The termination of a military operation can have diplomatic implications. Parliamentary oversight allows lawmakers to assess how the operation might have affected international relations and how any fallout can be managed diplomatically.

Therefore, parliamentary oversight over military operations does not end with the termination of an operation. It becomes, in fact, even more important to ensure accountability, transparency, and the responsible use of military power. This oversight facilitates an informed assessment of the operation's outcomes, consequences, and lessons learned, contributing to the improvement of future military operations and the overall credibility of the government's actions.

Evolution of NATO operations

Introduction

On 13 October 2022, NATO Secretary General (SG) Jens Stoltenberg, following the meetings of NATO Defence Ministers, gave a press conference.¹⁶³ He stated there that the Allies were focused on NATO's missions and operations *inter alia*. In a more unpredictable world, he insisted, it was important to strengthen and deepen NATO-EU cooperation. In Bosnia and Herzegovina, NATO continues to support the EU-led operation Althea and in Kosovo, NATO's KFOR mission maintains a safe and secure environment in line with its UN mandate. The EU-facilitated dialogue between Belgrade and Pristina is the only practical way forward and KFOR stands ready to intervene if required. In Iraq, NATO remains committed to training missions so that Iraqis can suppress terrorism themselves. In an environment where Ukraine and now Israel/Gaza takes up the spotlight, it is hard to break through the media noise. But there has been considerable attention to Kosovo recently and the NATO mission in Iraq has again been upgraded at the request of the Iraqi government. On 21 November 2022, the NATO SG took part in the 68th Annual Session of the NATO Parliamentary Assembly in Madrid¹⁶⁴ and his speech did not include any reference to military operations. But this does not mean that NATO operations have lost their relevance. The 2022 NATO Strategic Concept made clear that NATO will continue to fulfil three core tasks: deterrence and defence; crisis prevention and management; and cooperative security. These are complementary and ensure the collective defence and security of all Allies.¹⁶⁵ However, in the circumstances NATO has centered on collective defence and Ukraine in order to respond to immediate security concerns and challenges. This has been demonstrated through the decision to increase NATO's military presence in the eastern part of the Alliance as part of Enhanced Forward Presence. It has also been seen in a series of deployments (missions) designed to deter Russia and to assure front-line Allies that they would be protected in case of an attack.

This chapter attempts to trace the evolution of NATO operations and missions and to explain their changes and associated challenges through the formation of the Strategic Concepts. NATO operations have been examined by various researchers and military experts. Oana-Cosmina Mihalache noted that NATO has adapted to new challenges and new threats: it has broadened its security agenda accordingly. The 'out of area' missions that brought the Alliance outside its borders gave more meaning to the community of shared values. They also pushed NATO to

163 NATO. 2022. 'Press conference by NATO Secretary General Jens Stoltenberg following the meetings of NATO Defence Ministers.' 13 October. Available at https://www.nato.int/cps/en/natohq/opinions_208063.htm

164 NATO. 2022. 'NATO Secretary General addresses NATO Parliamentary Assembly in Madrid.' 21 November. Available at https://www.nato.int/cps/en/natohq/news_209239.htm

165 NATO. 2022 'NATO 2022 Strategic Concept.' Available at <https://www.nato.int/strategic-concept/>.

become both a security, and a values and norms exporter.¹⁶⁶ Scott A. Sendmeyer studied NATO strategy development after the end of the Cold War leading up to the commitment of NATO to the International Security Assistance Force (ISAF). It became clear that these structures and processes do not easily facilitate the formation of a coherent strategy for the alliance.

During times of conflict, more flexible and adaptable institutional structures are necessary for effective operations: this is particularly true of those operations outside alliance boundaries. It has become apparent that the adopted new strategic concept must see the alliance adapt in order to remain relevant in the contemporary security environment.¹⁶⁷ Julien Pomarède and Théa Schjødt explored NATO's support mission to the African Union's peacekeeping operation in Darfur, Sudan between 2005 and 2007. They argued that the normalization of NATO's support mission to the African Union in Darfur and the integration of this operation in NATO's security identity were the result of complex and conflict-ridden social interactions between different discursive practices supported by different actors.¹⁶⁸ Michael Hanna, David Granzow, Bjorn Bolte, and Andrew Alvarado claimed that current global conflict trends are increasingly pulling NATO away from its traditional collective defense mission into stability and reconstruction (S&R) operations. S&R environments require NATO to collaborate with and support host nation governments, international organizations, and a range of non-governmental organizations to address security, political, and social challenges. However, NATO finds it difficult to collect and share intelligence and information in these environments.

The authors identified three policy options to help NATO improve its support for S&R operations by enhancing information-sharing mechanisms within NATO and with non-NATO stakeholders.¹⁶⁹ Nicholas J. Lambert analyzed the methodologies used by the analysts during NATO operations in Bosnia and Herzegovina. He looked at the reasons behind the adoption of each methodology and gave some examples of outputs. The relative utility of the activity to the NATO command chain was also highlighted.¹⁷⁰ A group of authors researched a model of nuclear-hydrogen synergy for use in NATO operations. They identified opportunities and threats related to mobile energy

166 Oana-Cosmina Mihalache. 2017. 'NATO's 'Out of Area' Operations: A Two-Track Approach. The Normative Side of a Military Alliance.' *Croatian International Relations Review* Vol. 23, No. 80, pp. 233-258.

167 Major Scott A. Sendmeyer (United States Army). 2010. 'NATO Strategy and Out-of-Area Operations.' 2 December. Available at <https://www.hsdl.org/?view&did=713508>.

168 Julien Pomarède and Théa Schjødt. 2015. 'Security Identities and 'No More, No Less' Operations: On Making NATO's Involvement in Darfur Possible.' *Journal of Intervention and Statebuilding*, Vol. 9, No. 4, pp. 495-518.

169 NATO Intelligence and Information Sharing: Improving NATO Strategy for Stabilization and Reconstruction Operations Michael Hanna, David Granzow, Bjorn Bolte, and Andrew Alvarado. 2017. 'NATO Intelligence and Information Sharing: Improving NATO Strategy for Stabilization and Reconstruction Operations.' *Connections: The Quarterly Journal*, Vol.16, No.4, pp. 5-33.

170 Nicholas J. Lambert. 2002. 'Measuring the success of the NATO operation in Bosnia and Herzegovina 1995–2000.' *European Journal of Operational Research*, Vol. 140, No. 2, pp. 459-481.

generation with nuclear-hydrogen synergy for NATO.¹⁷¹ Glenda Garelli and Martina Tazzioli looked, instead, at the recent transformations of military-humanitarian technology for managing migration in the Mediterranean, focusing on two naval operations, the European Union Operation Sophia deployed in the central Mediterranean and the NATO operation in the Aegean. Shazwanis Shukri scrutinized the evolution of NATO's approaches to combatting terrorism from 2001 until 2016. She specifically analysed the implementation of Operation Active Endeavour (OAE) which was initiated as an immediate response to the 9/11 terrorist attacks in the United States in the fight against international terrorism. The mandate assigned through this operation included, amongst other matters: monitoring and surveillance activities; escorting assistance; compliant boarding; and joint-training with NATO partners. These tasks have significantly contributed to a sharp decline in terrorist acts in the Mediterranean area.¹⁷² Richard Best described the role of military intelligence in NATO operations in Kosovo, the importance of intelligence to current and future military operational capabilities, and the challenges facing the U.S. Intelligence Community in supporting such operations.¹⁷³ NATO and UN peacekeeping synergy was written up by Nina Rzhavska and Andriy Moroz. These authors characterised peacekeeping activities and principles and assess their effectiveness, while setting out the main problems with peacekeeping mechanisms and optimal methods for future UN and NATO peacekeeping operations.¹⁷⁴ Margriet Drent has looked at EU-NATO Relations in Crisis Management Operations.¹⁷⁵ David Nauta overviewed the key moments in the development of NATO, the recent Institutional framework of NATO and NATO's decision-making process, which includes operations.¹⁷⁶

The literature on NATO operations shows that they remain rather complex, and that their development and role in international security requires further consideration. To this end, the present article sets out the evolution of NATO operations in a systematic manner. There are four parts: part one examines the original NATO Strategic Concept and the first NATO operational engagements in the Western Balkans; the second assesses the updated NATO Strategic Concept in 1999 and the expansion of NATO operations; the third focuses on new Strategic Concepts adopted in 2010 and 2022 and the factors that affected the operations; the fourth, meanwhile, assesses the intensity of NATO operations. The article is based on the author's personal

171 Jarosław Gryz, Krzysztof Król 2, Anna Witkowska, and Mariusz Ruszel. 'Mobile Nuclear-Hydrogen Synergy in NATO Operations.' *Energies*, Vol. 14, No. 23.

172 Shazwanis Shukri. 2019. 'Combatting Terrorism at Sea: Assessing NATO'S Maritime Operations in the Mediterranean.' *Journal of International Studies*, Vol. 15, pp. 105-116.

173 Richard A. Best, Jr. 'CRS Report for Congress, 'Kosovo: Implications for Military Intelligence.' 5 November 1999. Available at https://www.everycrsreport.com/files/19991105_RL30366_fb37a2ab7103f2cb51abadd9b733cdba2110a286.pdf.

174 Nina Rzhavska and Andriy Moroz. 2022. 'In Search of Effective Scenarios for Peace Operations for the UN and NATO.' *Access to Justice in Eastern Europe*, Vol. 5, No. 13, pp. 87-106.

175 Galantino, M. G. and Freire, M. R. (Eds.), *Managing Crises, Making Peace: Towards a Strategic EU Vision for Security and Defense*, Springer, 2015.

176 D. Nauta, *The International Responsibility of NATO and its Personnel during Military Operations*, 2016. Available at <https://repository.ubn.ru.nl/bitstream/handle/2066/161250/1/161250.pdf>.

experience at NATO HQ, interviews with former NATO officers and relies, too, on open-source documents. It does not cover all aspects of NATO operations and associated security challenges. Rather, it demonstrates the evolutionary character of NATO operational engagements and its agility in responding to emerging threats and security challenges.

1. NATO Strategic Concept and First Operational Engagements

The collapsing Soviet Union was pivotal in reshaping NATO's level of ambitions and its understanding of military threats. The Alliance's Strategic Concept was agreed by the Heads of State and Government participating in the Meeting of the North Atlantic Council on 7-8 November 1991,¹⁷⁷. New security challenges and threats were assessed there and were made public. The monolithic, massive and potentially immediate Soviet threat which had been the principal concern of the Alliance in its first forty years had disappeared. On the other hand, the document stressed uncertainty about the future and the kinds of risks to the security of the Alliance remained. It stated that the risks to Allied security were multi-faceted in nature and multi-directional. This made them difficult to predict and assess.¹⁷⁸

The concept made no reference to operations outside NATO territory. Nevertheless, the document stated that there was a greater risk of different crises arising, crises which could develop quickly and which would require a rapid response. But, it was suggested, they were likely to be of a lesser magnitude.¹⁷⁹ NATO would have to be, the document stated, capable of responding to such risks if stability in Europe and the security of Alliance members were to be preserved. NATO, it was clear, needed to focus on a variety of military and non-military means to respond to different crises.¹⁸⁰ Planners at the member States' Ministries of Defence contributed to and developed a single war plan which was approved by the North Atlantic Council (NAC); Member States assigned forces for the execution of this plan.¹⁸¹ Furthermore, they also agreed on several alarm plans that spelled out the conditions under which they would transfer their operational command of assigned forces to allied commanders. Planning shifted away from national defence planners to the NATO Command Structure, which was able to produce operational plans for a variety of operations on an *ad hoc* basis.¹⁸²

177 NATO. 2022. 'The Alliance's New Strategic Concept (1991) agreed by the Heads of State and Government participating in the Meeting of the North Atlantic Council.' 1 July. Available at https://www.nato.int/cps/en/natohq/official_texts_23847.htm.

178 Ibid.

179 Ibid.

180 D. Nauta, *The International Responsibility of NATO and its Personnel during Military Operations*, 2016. Available at <https://repository.ubn.ru.nl/bitstream/handle/2066/161250/1/161250.pdf>.

181 Ibid.

182 Ibid.

The first test for NATO was the outbreak of armed conflict in Bosnia and Herzegovina. NATO first became involved in the Bosnian conflict in 1992, at the request of the United Nations. Its intention there was to enforce economic sanctions, an arms embargo and a no-fly zone.

In September 1991 the UN Security Council, under Chapter VII of the UN Charter, passed resolution 713 imposing a weapons and military equipment embargo on Yugoslavia; Resolution 757, also under chapter VII, followed on 30 May 1992.¹⁸³ This resolution included the imposition of a complete embargo on all goods and products originating in or destined for the Federal Republic of Yugoslavia, with the exception of medical supplies and foodstuffs.¹⁸⁴ On 10 July 1992, the foreign ministers of the North Atlantic Alliance agreed to a NATO contribution in support of the two Security Council resolutions, operation Maritime Monitor. The NATO units deployed on this operation were ordered to conduct 'surveillance, identification and reporting of maritime traffic in areas to be defined in international waters in the Adriatic Sea.'¹⁸⁵ On 16 July 1992, the NATO Standing Naval Force Mediterranean (SNFM) started patrolling in international waters off the coast of Montenegro. In the air, American, British and Portuguese maritime patrol aircraft checked all surface contacts, while NATO Airborne Early Warning Force (NAEFW) E3-A aircraft integrated surveillance pictures.¹⁸⁶

NATO began patrolling the skies over Bosnia on 16 October 1992 in Operation Sky Monitor, following a UN resolution 781 banning flights by any aircraft without approval from UNPROFOR.¹⁸⁷

183 United Nations Security Council. 1991. 'Security Council resolution 713 (1991) [imposing a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia].' 25 September. Available at <https://digitallibrary.un.org/record/282470?ln=en>

184 Government of Canada. 2018. 'Operation MARITIME MONITOR.' 11 December. Available at <https://www.canada.ca/en/departement-national-defence/services/military-history/history-heritage/past-operations/europe/maritime-monitor-sharp-vigilance.html>.

185 Ibid.

186 Ibid.

187 Col Robert C. Owen (Eds.), *Deliberate Force: A Case Study of the Air University Balkans Air Campaign Study*, Air University Press, 2000. Available at https://www.airuniversity.af.edu/Portals/10/AUPress/Books/B_0074_OWEN_DELIBERATE_FORCE.pdf.

S/RES/781 (1992)

1. Decides to establish a ban on military flights in the airspace of Bosnia and Herzegovina, this ban is not to apply to United Nations Protection Force flights or to other flights in support of United Nations operations, including humanitarian assistance;
2. Requests the United Nations Protection Force to monitor compliance with the ban on military flights, including the placement of observers where necessary at airfields in the territory of the former Yugoslavia;
3. Also requests the United Nations Protection Force to ensure, through an appropriate mechanism for approval and inspection, that the purpose of flights to and from Bosnia and Herzegovina other than those banned by paragraph 1 above is consistent with Security Council resolutions;
4. Requests the Secretary-General to report to the Council on a periodic basis on the implementation of the present resolution and to report immediately any evidence of violations;
5. Calls upon States to take nationally or through regional agencies or arrangements all measures necessary to provide assistance to the United Nations Protection Force, based on technical monitoring and other capabilities, for the purposes of paragraph 2 above;
6. Undertakes to examine without delay all the information brought to its attention concerning the implementation of the ban on military flights in Bosnia and Herzegovina and, in the case of violations, to consider urgently the further measures necessary to enforce this ban;

<http://unscr.com/en/resolutions/781>

In the meantime, Operation Maritime Monitor was transformed into Operation Maritime Guard in line with the implementation of the UNSCR resolution 787.¹⁸⁸ NATO decided, acting under Chapter VII of the Charter of the United Nations, to ensure that commodities and products transshipped through the Federal Republic of Yugoslavia (Serbia and Montenegro) were not diverted in violation of resolution 757 (1992); and to prohibit the transshipment of crude oil, petroleum products, coal, energy-related equipment, iron, steel, other metals, chemicals, rubber, tires, vehicles, aircraft and motors of all types unless such transshipments were specifically authorized on a case-by-case basis by the Committee established by resolution 724 (1991) under its no-objection procedure.¹⁸⁹ It

188 NATO. 1996. 'NATO/WEU Operation Sharp Guard.' 2 October. Available at <https://www.nato.int/ifor/general/shrp-grd.htm>.

189 United Nations Security Council. 1992. 'Resolution 787 (1992) Adopted by the Security Council at its 3137th meeting, on 16 November 1992.' 16 November. Available at <http://unscr.com/en/resolutions/doc/787>.

authorized NATO to use force, and NATO could stop, inspect, and divert ships bound for the former Yugoslavia. All ships bound to or coming from the territorial waters of the former Yugoslavia were halted for the inspection and verification of their cargoes and destinations.¹⁹⁰

The joint NATO-WEU Operation Sharp Guard began on 15 June 1993 to replace the separate NATO and WEU operations Maritime Guard and Sharp Fence; the operation was suspended on 19 June 1996 and terminated following a United Nations Security Council resolution adopted on 1 October 1996.¹⁹¹

Both economic penalties and an arms embargo were successfully imposed for more than three years by NATO and the WEU. This helped contain war in the former Yugoslavia and laid the foundations for the Peace Agreement for Bosnia and Herzegovina. During operation Sharp Guard no ships were reported as having broken the embargo and during the period 22 November 1992 to 18 June 1996 some 74,000 ships were challenged, almost 6,000 were inspected at sea and more than 1,400 were diverted and inspected in port.¹⁹² Nevertheless, arms continued to flow into the war zones.

On 12 April 1993, Operation Sky Monitor was renamed Deny Flight, after UN Security Council Resolution (UNSCR) 816 granted it authority to intercept and, if necessary, shoot down aircraft violating the prohibition. Its mandate was further expanded from 22 July of that year to include close air support (CAS) to protect UN peacekeepers.¹⁹³ In February 1994, after a deadly mortar attack on a Sarajevo market place, the UN asked NATO to conduct airstrikes against Bosnian Serb air defences, command and control installations and ammunitions facilities.¹⁹⁴ Of note, UN-NATO cooperation in Bosnia and Herzegovina prior to the Dayton/Paris Agreement was marred by various disputes on authorization (decision making) and contentions over interpretations of authority and action coordination. Nevertheless, Bosnia and Herzegovina became the setting for the first NATO combat engagement. On 28 February 1994, two pairs of US Air Force F-16 fighters intercepted six Yugoslav air force Super Galeb light attack aircraft on a bombing mission against Bosnian government forces and shot down four of them.¹⁹⁵

190 J. P. Kaufman, *NATO and the Former Yugoslavia-Crisis, Conflict, and the Atlantic Alliance*, Rowman & Littlefield, 1999.

191 NATO. 1996. 'NATO/WEU Operation Sharp Guard.' 2 October. Available at <https://www.nato.int/for/general/shrp-grd.htm>.

192 Ibid.

193 Col Robert C. Owen (Eds.), *Deliberate Force: A Case Study of the Air University Balkans Air Campaign Study*, Air University Press, 2000. Available at https://www.airuniversity.af.edu/Portals/10/AUPress/Books/B_0074_OWEN_DELIBERATE_FORCE.pdf.

194 NATO. 2015. '20 Years Since NATO's First Major Peacekeeping Operation.' 17 December. Available at https://www.nato.int/cps/en/natohq/news_126141.htm.

195 Col Robert C. Owen (Eds.), *Deliberate Force: A Case Study of the Air University Balkans Air Campaign Study*, Air University Press, 2000. Available at https://www.airuniversity.af.edu/Portals/10/AUPress/Books/B_0074_OWEN_DELIBERATE_FORCE.pdf.

In August 1995, NATO launched Operation Deliberate Force, which targeted Bosnian Serb command and control installations and ammunition facilities.¹⁹⁶ This successful air campaign helped pave the way for the signing of the Dayton Peace Accords in December 1995. To support the implementation of this peace agreement, NATO immediately deployed a UN-mandated Implementation Force (IFOR, under the codename Operation Joint Endeavour). This involved some 60,000 NATO troops.¹⁹⁷ Joint Endeavour was followed in December 1996 by the deployment of the 32,000-strong Stabilization Force (SFOR), which operated in support of NATO Operation Joint Guard and Operation Joint Forge.¹⁹⁸ SFOR was created upon UNSC resolution 1088, which recognized that the parties had authorized the multinational force referred to in paragraph 18 to take such actions as required, including the use of necessary force, to ensure compliance with Annex 1-A of the Peace Agreement.¹⁹⁹ SFOR maintained a secure environment in BiH until the mandate was handed over to a European Union (EU) force in December 2004. NATO has continued to provide support to the EU-led operation (EUFOR Althea) under the so-called 'Berlin Plus Agreements,' an extensive package of agreed-upon arrangements which, *inter alia*, essentially allow the EU to draw on certain NATO military assets in its own operations.

NATO operational engagements in Bosnia and Herzegovina proved NATO's ability to confront an enemy and support peace efforts. It proved that Allies were able to overcome their differences, reach consensus and act in unison in the most contentious actions, short of outright military contingencies in the event of an armed attack on member states (warfare). It also spotlighted changing geopolitical circumstances and NATO's Bosnia and Herzegovina experience. NATO had, through its missions and operations in the 1990s, revealed the shortcomings and the out-dated nature of its first, and perhaps idealistic post-Cold War strategic concept. In July 1997, NATO Heads of State and Government agreed that the Strategic Concept should be re-examined to ensure that it remained fully consistent with Europe's new security challenges. The Council was requested to initiate work with a view to completing a new Concept in time for presentation at the next Summit Meeting in 1999.²⁰⁰

196 Ibid.

197 NATO. N.d. 'History of the NATO-led Stabilisation Force (SFOR) in Bosnia and Herzegovina.' Available at <https://www.nato.int/sfor/docu/d981116a.htm>.

198 Ibid.

199 United Nations Security Council. 1996. 'Resolution 1088 (1996) Adopted by the Security Council at its 3723rd meeting, on 12 December 1996.' 12 December. Available at <http://unscr.com/en/resolutions/doc/1088>.

200 D. Nauta, *The International Responsibility of NATO and its Personnel during Military Operations*, 2016. Available at <https://repository.ubn.ru.nl/bitstream/handle/2066/161250/1/161250.pdf>.

2. Introduction of Crisis Response Operations

The Alliance's Strategic Concept (1999) was approved by Heads of State and Government in the meeting of the North Atlantic Council in Washington D.C., 24 April 1999.²⁰¹ The concept was debated and adopted in light of the on-going Kosovo crisis and NATO enlargement. The Allies agreed to stand ready, on a case-by-case and consensus basis, and, in conformity with Article 7 of the Washington Treaty, to contribute to effective conflict prevention and to engage actively in crisis management, including crisis response operations.²⁰² The document stated that the Alliance operates in an environment of continuing change and that its commitment, exemplified in the Balkans, to conflict prevention and crisis management, including through peace support operations, all reflect its determination to enhance the peace and stability of the Euro-Atlantic area.²⁰³ In pursuit of its policy of preserving peace, preventing war, and enhancing security and stability and as set out in the fundamental security tasks, NATO would seek, in cooperation with other organisations, to prevent conflict. Should a conflict arise NATO would contribute to its effective management, consistent with international law, including the possibility of conducting non-Article 5 crisis-response operations.²⁰⁴ The Alliance was, notably, prepared to conduct operations in support of the more general goal of bolstering and extending stability. This frequently entails the involvement of NATO Partners. The forces of the Alliance have crucial responsibilities in promoting cooperation and understanding with NATO's Partners and other nations. This is especially so when it comes to assisting NATO Partners in getting ready for prospective participation in PfP operations conducted by NATO. As a result, they support the maintenance of peace, the protection of the Alliance members' shared security interests, and the stability and security of the Euro-Atlantic region.²⁰⁵ The Concept generally, then, defined two categories of NATO military operations: non-Article 5 Crisis Response Operations and Collective Defense Operations under Article 5. Within the context of Crisis Response Operations, Peace Support Operations are constantly evolving. These operations are intended to address the complex emergencies and formidable difficulties brought on by states that are collapsing in a dynamic and uncertain strategic environment. They involve a spectrum of activities, which may include Peace Enforcement and Peacekeeping, as well as Conflict Prevention, Peacemaking, Peace Building and Humanitarian Relief.²⁰⁶ This idea enshrined the Alliance's dedication to a wider security ethos that went far beyond mutual defence in the case of an attack on a member. The Security Concept acknowledged the need to be able to execute non-Article 5 Crisis

201 NATO. 2022. 'The Alliance's New Strategic Concept (1991) agreed by the Heads of State and Government participating in the Meeting of the North Atlantic Council.' 1 July. Available at https://www.nato.int/cps/en/natohq/official_texts_23847.htm.

202 Ibid

203 Ibid

204 Ibid

205 Ibid

206 AJP-3.4.1 - PEACE SUPPORT OPERATIONS is a NATO UNCLASSIFIED publication. The agreement of nations to use this publication is recorded in STANAG 2181.

Response Operations, as well as Collective Defense Operations. Again, a new strategic concept was tested with NATO operational engagements in Kosovo, Afghanistan and Iraq.

NATO launched an air campaign, Operation Allied Force, in March 1999 to halt the humanitarian catastrophe that was then unfolding in Kosovo.²⁰⁷ After more than a year of conflict within the province and unsuccessful international attempts to resolve the situation through diplomacy, it was decided to take action. Some allies were hesitant about employing force, but they were unwilling to impede the majority agreement of the Allies. The US supplied considerable air power and surveillance assets. Other Allies held back but they did not block the operation either. The air campaign consisted of three phases: phase one focused on Serbian air defense systems; phase two involved strikes against military targets in Serbia below the 44th parallel and southwards to the Kosovo border; then in phase three airstrikes sought targets north of the 44th parallel, including Serbia's capital Belgrade.²⁰⁸ The campaign lasted 78 days. Sorties peaked in late May and early June, for example, on 26 May, NATO aircraft flew nearly 900 sorties, and by 2 June, 1999, Milosevic agreed to end the conflict.²⁰⁹ The Air Force struck 421 fixed targets, 35 percent of which were destroyed and the U.S. Air Force flew 30,018 sorties. Broken down by plane type this was: 11,480 airlift; 8,889 fighter; 322 bomber; 6,959 tanker; 1,038 Intelligence, Surveillance, and Reconnaissance (ISR); 834 Special Operations; and 496 unmanned aerial vehicle (UAV) missions.²¹⁰ The Air Expeditionary Force (AEF) concept was successfully used for the first time during Allied Force as units rotated into Aviano Air Base, Italy, under the AEF construct. Operation Allied Force also witnessed the first combat use of the B-2 Stealth bomber and the first significant deployment of remotely piloted aircraft.²¹¹

Once NATO and the Federal Republic of Yugoslavia had reached a Military Technical Agreement, NATO announced the suspension of the air war on 10 June 1999. Criticism of the NATO bombing campaign has included allegations of varying seriousness that: as the resort to force was illegal, all NATO actions were illegal; and that the NATO forces deliberately attacked civilian infrastructure targets (and that such attacks were unlawful); and that NATO deliberately or recklessly attacked the civilian population. Some went so far as to accuse NATO of crimes against humanity and of genocide.²¹² This sparked a debate about whether or not United Nations' authorization is required for crisis response activities. Supporters of the campaign have argued that NATO's intervention was

207 Air Force Historical Support Division. N.d. '1999 – Operation Allied Force.' Available at <https://www.afhistory.af.mil/FAQs/Fact-Sheets/Article/458957/1999-operation-allied-force/>.

208 Ibid

209 Ibid

210 Ibid

211 Ibid

212 United Nations International Criminal Tribunal for the former Yugoslavia. N.d. 'Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia.' Available at: <https://www.icty.org/en/press/final-report-prosecutor-committee-established-review-nato-bombing-campaign-against-federal>.

based on humanitarian grounds and regional security concerns rather than the narrow interpretation of international norms that, under the UN Charter, recognize only two exceptions to the prohibition of the use of force in resolving international disputes: 1). Chapter 7 Security Council authorization, and 2). Article 51 and the right of self-defense.

In the aftermath of Operation Allied Force, NATO deployed KFOR mission. KFOR derives its mandate from United Nations Security Council Resolution (UNSCR) 1244 of 10 June 1999 and the Military-Technical Agreement between NATO and the Federal Republic of Yugoslavia and Serbia.²¹³ KFOR operates under Chapter VII of the UN Charter and, as such, is a peace enforcement operation. Today, KFOR consists of approximately 3,800 troops provided by 27 Allied and partner countries and it continues to help maintain a safe and secure environment and freedom of movement for all people and communities in Kosovo.²¹⁴ NATO has gradually changed KFOR's force posture toward a smaller, more adaptable force with fewer static responsibilities.

Near Kosovo, NATO was engaged in resolving the crisis in North Macedonia between armed ethnic Albanian groups and Macedonian security forces. NATO was among the signatories of General Ceasefire Agreement (Ohrid Agreement), which terminated the conflict and authorized NATO to act. According to the agreement,²¹⁵ the parties accepted the importance of the commitments of 5 July 2001. There was to be a complete cessation of hostilities, complete voluntary disarmament of the ethnic Albanian armed groups and their complete voluntary disbandment.²¹⁶ These groups acknowledged that a decision by NATO to assist in this context would require the establishment of a general, unconditional and open ended cease-fire, agreement on a political solution to the problems of this country, a clear commitment by the armed groups to voluntarily disarm, and acceptance by all the parties of the conditions and limitations under which NATO forces will operate.²¹⁷ Consequently, from August 2001 to March 2003, NATO conducted three successive operations there. First, Operation Essential Harvest disarmed ethnic Albanian groups operating on Macedonia's territory. The follow-on Operation Amber Fox provided protection for international monitors overseeing the implementation of the peace plan. Finally, Operation Allied Harmony was launched in December 2002 to provide advisory elements to assist the government in ensuring stability throughout Macedonian territory.²¹⁸

213 NATO. 2022. 'NATO's Role in Kosovo.' 20 October. Available at <https://www.nato.int/kosovo/>.

214 Ibid.

215 OSCE. 2001. 'Field Work Agreement Concluded at Ohrid, Macedonia Signed at Skopje, Macedonia on 13 August 2001.' 13 August. Available at <https://www.osce.org/files/f/documents/2/8/100622.pdf>.

216 Peace Accord Matrix. 2001. 'Ohrid Agreement.' 13 August. Available at <https://peaceaccords.nd.edu/accord/ohrid-agreement>.

217 Ibid.

218 Emil J. Kirchner, Roberto Dominguez (Ed.), *The Security Governance of Regional Organization*, Routledge, 2007.

The 11 September 2001 terrorist attacks in the US marked another stage in the evolution of NATO operations. Operation Eagle Assist began on 9 October 2001 following the North Atlantic Council's 4 October decision to take measures to operationalise Article 5 of the Washington Treaty.²¹⁹ Eight-hundred-and-thirty crew members from thirteen NATO nations patrolled US skies in the NATO AWACS for nearly 4,300 hours in over 360 operational sorties. This operation was terminated in May 2002.²²⁰ Additionally, Operation Active Endeavour (OAE) was launched in the immediate wake of the 9/11 terrorist attacks in order to prevent, defend against, and disrupt terrorist activity in the Mediterranean. It helped to secure one of the busiest trade routes in the world and was among eight initiatives launched by the Alliance in 2001, in solidarity with the United States.²²¹ It was an Article 5 operation, i.e. a collective defence operation that, initially only involved NATO member countries: non-NATO members started to get involved in 2004.²²² Furthermore, following the 9/11 terrorist attacks against the United States, the International Security Assistance Force (ISAF) was established under the request of the Afghan authorities and a UN mandate in 2001.²²³ ISAF was led by NATO from August 2003 to December 2014 and was succeeded on 1 January 2015 by the Resolute Support Mission (RSM), which was terminated in early September 2021.²²⁴ Assisting the Afghan government in providing efficient security across the nation and creating new Afghan security forces were two of ISAF's main goals in order to prevent Afghanistan from ever again serving as a refuge for terrorists. From 2011, responsibility for security was gradually passed over to Afghan forces, which took the lead for security operations across the country by summer 2013. The transition process was completed and Afghan forces assumed full security responsibility at the end of 2014, when the ISAF mission was completed.²²⁵ The Resolute Support Mission was launched in 2015. It consisted of around 10,000 troops from 36 NATO Allies and partners.²²⁶ The mission operated with one 'hub' (Kabul/Bagram) and four 'spokes' (Mazar-e-Sharif in the north, Herat in the west, Kandahar in the south, and Laghman in the east) and it carried out training, advice and assistance activities in support of the Afghan government's four-year security roadmap (launched in 2017). The roadmap aimed to increase the effectiveness and accountability of Afghan

219 NATO. 2022. 'Operations and Missions: Past and Present.' 14 June. Available at https://www.nato.int/cps/en/natohq/topics_52060.htm.

220 NATO. 2002. 'Statement by the Secretary General on the conclusion of Operation Eagle Assist.' 30 April <https://www.nato.int/docu/update/2002/04-april/e0430a.htm>.

221 Ibid.

222 NATO. 2022. 'Operations and Missions: Past and Present.' 14 June. Available at https://www.nato.int/cps/en/natohq/topics_52060.htm.

223 Ibid

224 Ibid

225 NATO. 2022. 'ISAF's Mission in Afghanistan (2001-2014).' 30 May. Available at https://www.nato.int/cps/en/natohq/topics_69366.htm#:~:text=Mandated%20by%20the%20United%20Nations,a%20safe%20haven%20for%20terrorists.

226 Ibid.

national security forces and institutions.²²⁷ The roadmap focused on leadership development, fighting capabilities (with an emphasis on the Afghan air-force and special operations forces), unity of command and the fight against corruption²²⁸.

By this time the geographical scope of NATO operations had vastly increased and the organization launched operations in various segments. First, the crisis in Iraq had a direct impact on NATO operational activities. In support of Türkiye's forces and her people, NATO committed over 1,000 technically advanced and highly capable forces.²²⁹ The NATO defensive deployment under codename Operation Display Deterrence to Southeast Türkiye started on 26 February 2003 when a NATO E3-AWACS Early Warning aircraft conducted the first operational flight, in order to contribute to the integrity of Turkish airspace.²³⁰ AWACS crews have flown about 100 missions and more than 950 flying hours and PATRIOT missile systems from the Netherlands and United States were also deployed to Türkiye to complement NATO's Integrated and Extended Air Defence System, confirming the Alliance's commitment to the defence of the territorial integrity of one of its members.²³¹ The last elements of NATO forces deployed to protect Türkiye as part of Operation Display Deterrence left the country on 3 May 2003.²³² The Allies overcame their disagreements on Iraq at the Istanbul Summit in June 2004 and decided to team up in the effort to assist Iraq in creating efficient and responsible security forces. As a result, the NATO Training Mission in Iraq was established (NTM-I). NTM-I provided its training, recommendations, and mentoring support in a variety of contexts. It was withdrawn from Iraq on 31 December 2011 when the mandate of the mission expired and when agreement could not be reached on the legal status of NATO troops operating in the country.²³³

Second, just before the onset of the harsh Himalayan winter, 8 October 2005, a devastating earthquake hit Pakistan, killing an estimated 80,000 people and leaving up to three million without food or shelter.²³⁴ On 11 October, in response to a request from Pakistan, NATO launched an operation to assist in the urgent relief effort. The Alliance airlifted close to 3,500 tons of supplies and

227 Ibid.

228 NATO. 2021. 'Resolute Support Mission (RSM): Key Facts and Figures.' Available at https://www.nato.int/nato_static_fl2014/assets/pdf/2021/2/pdf/2021-02-RSM-Placemat.pdf.

229 NATO. 2003. 'Conclusion of Operation Display Deterrence.' 7 May. Available at <https://www.nato.int/docu/update/2003/05-may/e0503a.htm>.

230 Ibid.

231 Ibid.

232 Ibid.

233 NATO. 2022. 'NATO's Assistance to Iraq (2004-2011).' 1 September. Available at https://www.nato.int/cps/en/natohq/topics_51978.htm.

234 NATO. 2010. 'Pakistan Earthquake Relief Operation.' 27 October. Available at https://www.nato.int/cps/fr/natohq/topics_50070.htm?selectedLocale=en.

deployed engineers, medical units and specialist equipment to assist in relief operations.²³⁵ On 1 February, 2006, NATO's largest humanitarian relief efforts came to an end. Over time, the Alliance has helped other nations affected by natural calamities, including Türkiye, Ukraine, and Portugal.

Third, NATO began supporting the African Union (AU). Following NATO's support to the AU mission in Sudan in 2005, the AU made a general request in January 2007 to all partners, including NATO, for financial and logistical support for its mission in Somalia (AMISOM).²³⁶ Later, in May 2007, it submitted a request to NATO, asking for strategic airlift assistance for AU member states willing to send troops to Somalia as part of AMISOM. In June 2007, the North Atlantic Council agreed, in principle, to support this request and NATO's support was initially authorised until August 2007.²³⁷ Strategic sealift support was requested at a later stage and agreed in principle by the NAC in September 2009.²³⁸ The AU's strategic airlift and sealift support requests for AMISOM (replaced by the African Union Transition Mission to Somalia – ATMIS – in April 2022) have been renewed on an annual basis.²³⁹

Fourth, in 2008, at the request of the United Nations, NATO started to support international efforts to combat piracy in the Gulf of Aden, off the Horn of Africa and in the Indian Ocean. These operations were referred to as Operation Allied Provider and Allied Protector.²⁴⁰ NATO ended the operation on 15 December, 2016, after there had been no successful piracy strikes since 2012. By maintaining marine situational awareness and keeping tight ties with other international counter-piracy actors, NATO is still actively involved in the battle against piracy.

The 1999 Strategic Concept attempted to respond to new challenges and threats from the emergence of terrorism, humanitarian issues and attacks against NATO members, a variety of issues still needed to be dealt with. This document outlined how NATO would address these threats and the range of measures it would take in order to do so. The document stated that NATO would continue to rely on the collective defence of its members and stated that it would be willing to respond to regional crises in order to maintain international peace and stability. It also highlighted the need to strengthen the alliance's political dialogue and consultation, and to develop military capabilities to effectively address new threats. In addition, NATO committed itself to providing assistance to its members in dealing with new security challenges and to developing new partnerships with other countries in order to promote mutual understanding and cooperation. This document was an important milestone in NATO's post-Cold War security policy and was

235 Ibid.

236 NATO. 2022. 'Cooperation with the African Union.' 17 June. Available at https://www.nato.int/cps/en/natohq/topics_8191.htm.

237 Ibid.

238 Ibid.

239 Ibid.

240 NATO. 2022. 'Counter-piracy Operations (2008-2016).' 19 May. Available at https://www.nato.int/cps/en/natohq/topics_48815.htm.

designed to ensure that the alliance was prepared to respond to the new threats and challenges it faced. Nevertheless, new instruments to tackle the escalating challenges, encompassing nuclear terrorism, cybercrime, and global climate change were needed as well as the institutional adjustments required to uphold NATO's significance in the 21st Century.

3. New Strategic Concepts in 2010 and 2022

On 19 November 2010, the Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation was adopted by the Heads of State and Government in Lisbon.²⁴¹ The document commits the Alliance to prevent crises, manage conflicts and stabilize post-conflict situations, including by working more closely with international partners, most importantly the United Nations and the European Union. It also offers NATO partners around the globe more political engagement with the Alliance, and a substantial role in shaping the NATO-led operations to which they contribute.²⁴² Furthermore, the document states that NATO has a unique and robust set of political and military capabilities to address the full spectrum of crises – before, during and after conflicts. NATO would, the document stated, actively employ an appropriate mix of those political and military tools to help manage developing crises that have the potential to affect Alliance security, before they escalate into conflicts. NATO would also stop ongoing conflicts where they affect Alliance security; and help consolidate stability in post-conflict situations where that contributes to Euro-Atlantic security.²⁴³ In order to effectively manage crises, NATO had to be prepared to sustain concurrent major joint operations as well as multiple smaller operations. Drawing on lessons learned from past operational engagements, such as those in Afghanistan and the Western Balkans, it is clear that successful crisis management requires a comprehensive political, civilian, and military approach. To ensure the coherence and efficacy of international efforts, NATO would actively collaborate with other international actors before, during, and after crises. This would allow for joint analysis, planning, and implementation of activities on the ground. Moreover, NATO would be ready to contribute to stabilization and any reconstruction, working in close consultation with relevant international actors. The concept mentions what needs to be done in order to be effective across the crisis management spectrum:

1. enhance intelligence sharing within NATO, to better predict when crises might occur, and how they can best be prevented;
2. further develop doctrine and military capabilities for expeditionary operations, including counterinsurgency, stabilization and reconstruction operations;
3. form an appropriate but modest civilian crisis management capability to interface more effectively with civilian partners, building on the lessons learned from NATO-led operations.

241 NATO. 2010. 'Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation adopted by Heads of State and Government in Lisbon.' 19 November. Available at https://www.nato.int/cps/en/natohq/official_texts_68580.htm.

242 Ibid.

243 Ibid.

This capability may also be used to plan, employ and coordinate civilian activities until conditions allow for the transfer of those responsibilities and tasks to other actors;

4. enhance integrated civilian-military planning throughout the crisis spectrum,
5. develop the capability to train and develop local forces in crisis zones, so that local authorities are able to maintain, as quickly as possible, security without international assistance;
6. identify and train civilian specialists from member states, made available for rapid deployment by Allies for selected missions, able to work alongside military personnel and civilian specialists from partner countries and institutions;
7. broaden and intensify the political consultations among Allies, and with partners, both on a regular basis and in dealing with all stages of a crisis – before, during and after.²⁴⁴

The 1999 Strategic Concept formalised NATO non-article 5 crisis response.²⁴⁵ The 2010 Concept, while not identifying direct adversaries, nevertheless reiterated that the defence of member states' territory and populations is NATO's 'greatest responsibility'. It is also written there that a full range of defence capabilities were required, including an appropriate mix of nuclear and conventional capabilities, as well as defence against ballistic missile attacks. Next to collective security and cooperation, the 2010 Strategic Concept raised crisis management to a primary responsibility. The Strategic Concept also drew lessons from previous operations. NATO by 2010, had accumulated a wealth of experiences and lessons in its post-Cold War crisis response operations, missions and operations. Experiences ranged from insights into its external relationships (with the UN, EU, and partner nations) and its own organizational setbacks linked to logistics, coordination, planning and the compatibility of capabilities.

The operational tempo remained intense. In March 2011, a coalition of NATO Allies and partners began enforcing an arms embargo on Libya. They maintained a no-fly zone and protected civilians and civilian populated areas from attack under Operation Unified Protector (OUP), successfully concluded on 31 October 2011.²⁴⁶

Operation Sea Guardian was launched in November 2016 and succeeded Operation Active Endeavour. At present, it is carrying out maritime security capacity building, and providing support to maritime situational awareness and to maritime counter-terrorism.²⁴⁷ Through Operation Sea

244 Ibid.

245 D. Nauta, *The International Responsibility of NATO and its Personnel during Military Operations*, 2016. Available at <https://repository.ubn.ru.nl/bitstream/handle/2066/161250/1/161250.pdf>.

246 NATO. 2015. 'NATO and Libya (Archived),' 9 November. Available at https://www.nato.int/cps/en/natohq/topics_71652.htm.

247 Ministry of Defence of Spain. N.d. 'Operation Sea Guardian: NATO's Maritime Operation in the Mediterranean.' Available at https://emad.defensa.gob.es/en/operaciones/operaciones-en-el-exterior/34-OTAN-SEA-GUARDIAN-Mediterraneo/index.html?__locale=en.

Guardian, NATO is contributing to the maintenance of a secure and safe maritime environment, while collaborating with other actors, such as the European Union (EU). For instance, NATO will provide – until its termination – support to Operation Sophia.²⁴⁸ In 2018, NATO initiated a training mission in Iraq, which aims at developing the capacity of Iraq's security forces, its defence and security institutions, and its national defence academies.²⁴⁹ NATO has also been supporting the African Union and conducting air policing missions at the request of its Allies.²⁵⁰ In addition, NATO leads operations in Kosovo and the Mediterranean. Furthermore, NATO assisted with the response

to the refugee and migrant crisis in Europe and has deployed Patriot missiles and AWACS aircraft in Türkiye.²⁵¹

The war in Ukraine has brought new security challenges and has brought back the spectre of conventional war in Europe. NATO leaders met, in 2022, in Madrid and adopted a new Strategic Concept.²⁵² It reaffirms that NATO's key purpose is to ensure collective defence, based on a 360-degree approach. It defines the Alliance's three core tasks: deterrence and defence; crisis prevention and management; and cooperative security.²⁵³ The Allies agreed to ensure the resources, capabilities, training and command and control arrangements to deploy and sustain military and civilian crisis management, stabilisation and counter-terrorism operations, including at a strategic distance.²⁵⁴ NATO building on the lessons learned over the past three decades, including through NATO operations in Afghanistan, will continue to improve readiness, military and civilian capabilities and civil-military planning and coordination. The Allies will further develop the Alliance's ability to support civilian crisis management and relief operations and to prepare for the effects of climate change, food insecurity and health emergencies on Allied security.²⁵⁵ But its focus was on Russia's aggression and the 2022 invasion of Ukraine, which reinforced the importance of the Alliance's defence of its member states. This was especially true of those Allies who are geographically closer to Russia. Its territorial defence capabilities, deterrence, and Article 5 security

248 Ibid.

249 NATO. 2023. 'NATO Mission in Iraq.' 16 February. Available at https://www.nato.int/cps/en/natohq/topics_166936.htm.

250 NATO. 2022. 'Operations and Missions: Past and Present.' 14 June. Available at https://www.nato.int/cps/en/natohq/topics_52060.htm.

251 Ibid.

252 NATO. 2022 'NATO 2022 Strategic Concept.' Available at <https://www.nato.int/strategic-concept/>.

253 NATO. 2022. 'NATO 2022 Strategic Concept Adopted by Heads of State and Government at the NATO Summit in Madrid 29 June 2022.' 29 June. Available at https://www.nato.int/nato_static_fl2014/assets/pdf/2022/6/pdf/290622-strategic-concept.pdf.

254 NATO. 2022 'NATO 2022 Strategic Concept.' Available at <https://www.nato.int/strategic-concept/>.

255 Ibid.

guarantee were at the forefront of the Alliance's agenda once more. NATO expanded its Enhanced Forward Presence initiative to four more multinational battlegroups in Bulgaria, Hungary, Romania and Slovakia (in addition to its initial 2017 four battlegroups deployments in Estonia, Latvia, Lithuania and Poland). While the stakes remain high in the Ukrainian conflict,²⁵⁶ it is unlikely the Alliance will shift its focus elsewhere. That indicates that, for the time being, its tasks and operations will be centred on defence and deterrence.

4. Intensity of NATO operations

The end of the Cold War and new security architecture enabled NATO to become more active in regional security and to respond to various security challenges, such as regional conflicts, civil wars and crises. In the early 1990s, NATO operations intensity was not particularly high and it included a maximum of four ongoing operations related to the conflicts in Western Balkans. NATO has had a long and complicated involvement in the Balkans since the early 1990s, when the region was embroiled in a series of wars. NATO operations in the Balkans were largely successful in helping to bring stability to the region. However, the long-term effects of NATO's involvement in the Balkans are still being felt and continue to be debated.

NATO operations increased significantly between 2001 and 2010. NATO launched its first major military operation in Afghanistan in 2001, in response to the 9/11 attacks. This mission, known as the ISAF, was tasked with providing security, stabilization, and reconstruction assistance to the Afghan government. However, over the past twenty years, Afghanistan has seen continuous violence and conflict. At the request of the Iraqi government, NATO also joined the U.S.-led coalition in Iraq, leading a training mission to help build the capacity of the Iraqi security forces. In addition to these missions, NATO took part, too, in a number of humanitarian operations, for instance providing assistance to flood victims in Pakistan. NATO organized, as well, anti-piracy operations, which were designed to protect merchant vessels from pirate attacks and to help reduce the threat of piracy in the region. NATO operations have become more involved, with more states lending their support. For example, Operation Ocean Shield was bolstered by contributions from Australia, Colombia, and New Zealand, demonstrating an increased collaboration with external actors. Overall, NATO operations between 2001 and 2010 expanded significantly, with NATO forces taking part in a variety of military, humanitarian, and anti-piracy missions around the world. Its intensity was very high with six on-going operations.

256 Of note, NATO and Allies have provided unprecedented levels of support to Ukraine. However, NATO has not launched any operation. At the 2022 NATO Summit in Madrid, Allies agreed to strengthen the Comprehensive Assistance Package (CAP) for Ukraine that was established at NATO's 2016 Warsaw Summit and was intended to provide practical support for Ukraine, including its ability to provide for its own security and implement wide-ranging security sector reforms. The strengthened CAP includes initiatives to boost NATO's long-term support to Ukraine and to provide the country with immediate, short-term, non-lethal military assistance. Under the Ukraine CAP Trust Fund, since March 2022, NATO has delivered projects providing support in multiple areas, including: combat rations, fuel material (including jet fuel), army boots, medical supplies (including first aid kits and pharmaceuticals), military training equipment and explosive ordnance disposal equipment. Additional projects, including further support to Ukraine in the area of C4 (Command, Control, Communications and Computers), are in various stages of development and implementation. See more at https://www.nato.int/cps/en/natohq/topics_37750.htm.

The end of the NATO mission in Afghanistan marks a major milestone in operational policy. The security situation in Afghanistan was fragile, the transition of security responsibility to the Afghan national security forces was a positive step forward and partly enabled the Afghan government to take greater responsibility for the security of the country. However, it did not lead to a more stable and secure future for the country and NATO's decision to terminate its engagement begs a number of questions. Coupled with the war in Ukraine, it becomes more complicated to understand NATO operational policy. NATO's new focus is on strengthening its deterrence and defence posture and on projecting stability beyond its borders. But the likelihood of new operations beyond NATO borders is not high.

Concluding remarks

NATO operational engagements have evolved dramatically since the collapse of the Soviet Union. These engagements have attempted to respond to security challenges pertaining to regional conflicts and global security issues. The changing security environment has demanded that NATO respond to various challenges and one of the responses has been the deployment of operations as reflected in the Strategic Concepts. Their scale and size have varied depending on security developments in and around the Alliance. The development of operational policy and its approach has not been revolutionary. Rather the logic and strategy remains evolutionary.

In the early 1990s, NATO launched its first operations in Bosnia and Herzegovina and demonstrated the alliance's capacity to contribute to the regional security and provide substantial aid in peace efforts. It showed that Allies were able to put aside their internal disagreements, arrive at a consensus, and act jointly in regional emergencies. Nevertheless, the shifting geopolitical landscape, new challenges and NATO's goals and activities in the 1990s, exposed the flaws and outdated nature of its initial, and perhaps idealistic post-Cold War strategic vision. There was a clear need for responding to crises outside NATO members' territory. However, divergent political interests had a demonstrable impact on NATO operational policy.

The need to reach agreement among its politically varied member states, many of which were reluctant to employ force, further complicated NATO's actions, witnessed in Allies' operations in Kosovo. The 9/11 attacks against the US, nevertheless, united and forced NATO to employ its operational capabilities. NATO acknowledged that 5 Article operations remained the cornerstone of Allies' security. But the need to be able to execute non-

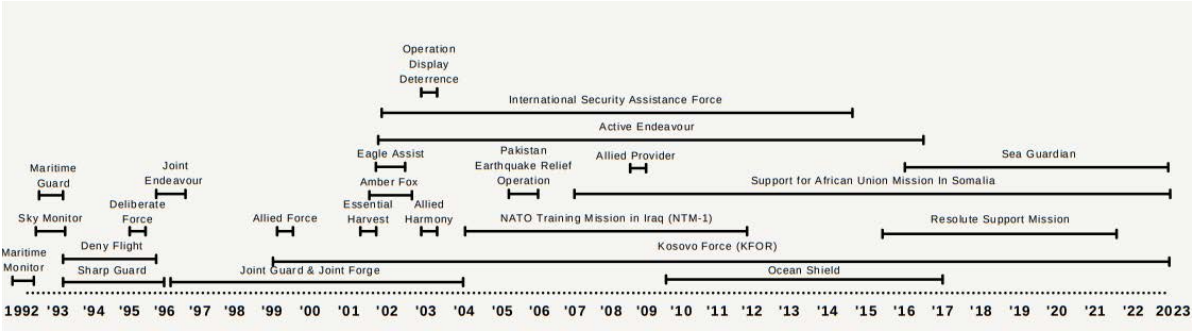
5 Crisis Response Operations was clear. This prompted NATO's operational engagements in Afghanistan, Iraq, the Mediterranean, humanitarian relief operations to Pakistan and elsewhere. Needless to say, NATO was reactive and their operational engagements, be it ISAF missions in Afghanistan or combat operations in Kosovo, formed an appropriate response, which, however, needed more elaborated long-term vision and post-conflict strategy. Libya's or Afghanistan's relapse into conflict has shown how important it is to concentrate on post-war reconstruction and stability efforts. A broad geographical spectrum required various capabilities and the units that were able to train Iraqi forces, could not be deployed on anti-piracy operations or high-intensity operations in Afghanistan. NATO member states' armed forces became subject to a wide range of mission requirements. They faced financial and practical issues in meeting the requests of their political masters.

2010 saw the adoption of a new strategic concept, which included Allies pledging to cooperate more closely with international partners in order to prevent crises, manage conflicts, and stabilize post-conflict situations. Furthermore, NATO made the decision to actively use a suitable combination of those political and military tools to help manage emerging crises. This was seen particularly in NATO's response to the refugee and migrant crisis. However, the deterrence and Article 5 operations should not be forgotten. The war in Georgia and Russia's illegal annexation of Crimea reinforced the notion that Allies' security remains a top priority. NATO's departure from Afghanistan closed the chapter of the last massive out-of-area operation and marked an operational shift to the reinforcement of its own security.

The Russian invasion of Ukraine in 2022 has reinforced NATO's notion to rapidly respond to security challenges. NATO's continued support for the Ukrainian cause and the unpredictability of Russia generally mean that NATO operational planners face a number of questions. NATO has stressed the importance of considerably strengthening defense and deterrence as the cornerstones of Article 5 commitment to defend one another. In this they demonstrate their determination to emphasize collective defense and assaults against NATO members. NATO operational capabilities have been deployed on the territory of eight of its member states through Enhanced Forward Presence. This proves that NATO has temporarily diverted attention from out-of-area operations and that their focus remains on immediate threats resulting from the Ukrainian-Russian war. In the future, NATO should consider lessons learned from its experiences in Iraq, Afghanistan and possibly Libya. In this way the organisation can be better prepared for new challenges and operational engagements.



Annex 1: Timeline of NATO Operations (1992-2023)



Annex 2: National approaches to parliamentary authorization of international deployment and the requirement for notification and consultation

Country	Ex ante veto power	Time consideration	Other considerations (Type of mission, etc.)	Consultation and Notification requirement	Time consideration	Other considerations (type of mission, etc.)
Australia	No	-	-	Yes (being developed)	30 days from deployment	Major military operations / party to an armed conflict
Austria	Yes		All deployment			
Belgium	No			Yes		
Bulgaria	Yes					
Canada	No			No (ad hoc)		Only operations with significant troop contribution
Croatia	Yes		Humanitarian aid is excluded from parliamentary authorization			
Czechia	Yes		Operations under 60 days may be exempt under certain conditions			
Denmark	Yes	-	All deployment			
Estonia	Yes		Except cases of collective self-defence obligation under international treaty			
Finland	No			Yes (consultation requirement)		

France	Yes		Only interventions exceeding 4 months	Yes	Government shall inform parliament at least three days after the beginning of intervention	Notification may give rise to a debate
Germany	Yes	Approval must be requested 'good time' before deployment	Armed force operations			
Hungary	Yes		Except operations based on EU or NATO decision	Yes		Informed through report if operation is based on EU or NATO decision
Ireland	Yes		Only as part of International United Nations forces (except if forces are unarmed or are less than 12 members and except select other purposes)			
Italy	Yes	Annual authorization is required	All international deployment	Yes (deliberation)	Annual (prior to authorization)	
Lithuania	Yes	As indicated by the Seimas	All deployment			
Montenegro	Yes		All deployment			
Netherlands	No			Yes	In advance or if compelling reasons as soon as possible	Exemption for operations under Art 51 of UN Charter
North Macedonia	Yes		All deployment			
Norway	No		Unless it is major part of country's armed forces	Yes (Constitutional tradition)	Typically, prior to deployment or at the earliest opportunity	

Poland	No			Yes	Immediately	All deployment abroad
Portugal	No			Yes	Before deployment (or if justified after security term requested by the action has been completed)	
Romania	Yes		Only for missions which are not governed by an international agreement	Yes (notification in all cases)	Notification 5 days after decision is made	Required for missions governed by international treaties
Slovakia	Yes	Missions over 60 days	Only for missions over 60 days which are not governed by an international agreement (excluding also humanitarian missions, military exercises, peace observing missions over 60 days)	Yes (notification)	Without undue delay	Missions up to 60 days resulting from obligations under international treaty
Slovenia	No			Yes (notification and discussion on committee level)		
Spain	Yes		Except operations directly related to defence of Spain or the national interest	Yes (consultation)		
Sweden	Yes		All deployment unless it is pre-emptively authorized by parliament (i.e., attack against Finland, training)			
Türkiye	Yes		Deployment required under international treaties is exempt			
United Kingdom	No			Yes (constitutional convention)		Emergency situations are excluded
United States	Yes	48 hours after committing armed forces	Operations exceeding 60 days			

Annex 3: Compilation of selected national legislation governing parliamentary oversight and control for international deployment for military operations

NATO member states:

Albania

Constitution of the Republic of Albania. Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)064-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)064-e)

Law on Civil Protection. Available at: <https://albcold.gov.al/wp-content/uploads/2021/05/Law-No.-45-On-Civil-Protection.pdf>

Belgium

Constitution of Belgium (Original title: Constitution du 7 février 1831). Available at: <http://www.parliament.am/library/parlamentarizm2019/belgia.pdf>

Bulgaria

Constitution of the republic of Bulgaria. (Original title: Конституция на Република България). Available at: <https://www.parliament.bg/en/const>

Canada

- The Constitution Acts, 1867 and 1982. Available at: <https://laws-lois.justice.gc.ca/eng/const/>
- National Defence Act R.S.C., 1985, c. N-5. Sec 31(1). Available at <https://laws-lois.justice.gc.ca/eng/acts/N-5/FullText.html>.

Croatia

- The Constitution of the republic of Croatia (15 January 2014) Original title: Ustav Republike Hrvatske. Available at: https://www.usud.hr/sites/default/files/dokumenti/The_consolidated_text_of_the_Constitution_of_the_Republic_of_Croatia_as_of_15_January_2014.pdf
- Law on Defence (OG 073/2013), Available at: https://digarhiv.gov.hr/arhiva/263/104255/narodnenovine.nn.hr/clanci/sluzbeni/2013_06_73_1452.html,

Czechia

- The Constitution of the Czech Republic (Czech: Ústava České republiky) ratified 28 December 1992. Available at: <https://www.psp.cz/en/docs/laws/1993/1.html>

Denmark

- Constitutional Act of Denmark (Original title: Danmarks Riges Grundlov). Available at https://www.thedanishparliament.dk/-/media/sites/ft/pdf/publikationer/engelske-publikationer-pdf/the_constitutional_act_of_denmark_2018_uk_web.pdf

Estonia

- International Military Cooperation Act (adopted 12 February 2003, entered into force 15 April 2003). Available at: <https://www.riigiteataja.ee/en/eli/506112013024/consolide>

Finland

- Act on Military Crisis Management (211/2006), Section 2(1). Available at: <https://finlex.fi/en/laki/kaannokset/2006/en20060211.pdf>

France

- Constitution of France, adopted on 4 October 1958 (Original title: Constitution française du 4 octobre 1958. Available at: https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/constitution_anglais_oct2009.pdf

Germany

- Basic Law for the Federal Republic of Germany (Original title: Grundgesetz für die Bundesrepublik Deutschland). Available at: https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html
- Federal Ministry of Justice of Germany, Gesetz über die parlamentarische Beteiligung bei der Entscheidung über den Einsatz bewaffneter Streitkräfte im Ausland (Parlamentsbeteiligungsgesetz), 18 March 2005. Available at <https://www.gesetze-im-internet.de/parlbg/BJNR077500005.html>.

Greece

- Law 1266/82, Law 2292/95²⁵⁷.

Hungary

- Constitution of Hungary adopted 18 April 2011 (Original title: A Magyar Köztársaság alkotmánya). Available at: https://www.constituteproject.org/constitution/Hungary_2016

Iceland

- The Defence Act No 34/2008. Available at: <https://www.government.is/topics/foreign-affairs/national-security/#:~:text=The%20Defence%20Act%20No%2034,international%20security%20and%20defence%20organisations.>

257 the role of parliament is not envisioned

Italy

- Legge 21 luglio 2016, n. 145 Disposizioni concernenti la partecipazione dell'Italia alle missioni internazionali. Available at <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016-07-21;145>.

Latvia

- The Constitution of the Republic of Latvia (Original title: Satversme). Available at: <https://www.saeima.lv/en/legislative-process/constitution>

Lithuania

- The Constitution of the Republic of Lithuania, adopted 25 October 1992 (Original title: Lietuvos Respublikos Konstitucija). Available at: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=rivwzvpvg&documentId=TAIS.211295&category=TAD>
- Republic of Lithuania Law on International Operations, Military Exercises and other Military Cooperation Events; 19 July 1994, No I-555, Vilnius (as last amended on 27 June 2018 – No XIII-1313). Available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e7ae8be07dc711e89188e16a6495e98c?jfwid=9fbgs6n5e>

Luxembourg

- Constitution of Luxembourg. Available at: https://www.constituteproject.org/constitution/Luxembourg_2009

Montenegro

- Constitution of Montenegro, adopted on 19 October 2007. Available at: https://www.constituteproject.org/constitution/Montenegro_2007

Netherlands

- The Constitution for the Kingdom of the Netherlands (Original title: Grondwet voor het Koninkrijk der Nederlanden van 24 augustus 1815). Available at: https://www.constituteproject.org/constitution/Netherlands_2008

North Macedonia

- The Constitution of the Republic of North Macedonia adopted on 17 November 1991 (Original title: УСТАВ НА РЕПУБЛИКА МАКЕДОНИЈА). Available at: https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspix

Norway

- Constitution of Norway, adopted on 17 May 1814 (Original title: Danish : Kongeriget Norges Grundlov). Available at: https://www.regjeringen.no/globalassets/upload/krd/kampanjer/valgportal/regelverk/the_constitution_election_provisions.pdf

Poland

- The Constitution of the Republic of Poland of 2nd April, 1997 (Original title: Konstytucja Rzeczypospolitej Polskiej). Available at: <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>
- the Act on the Principles of Deployment or Stay of the Armed Forces of the Republic of Poland Abroad. (Original title: USTAWA z dnia 17 grudnia 1998 r. o zasadach użycia lub pobytu Sił Zbrojnych Rzeczypospolitej Polskiej poza granicami państwa). Available at: <https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/zasady-uzycia-lub-pobytu-sil-zbrojnych-rzeczypospolitej-polskiej-pozza-16832383>

Portugal

- Constitution of the Portuguese Republic (Original title: CONSTITUIÇÃO DA REPÚBLICA PORTUGUESA). Available at: <https://www.parlamento.pt/sites/EN/Parliament/Documents/Constitution7th.pdf>

Romania

- Law no 43 of March 15, 2004, published in MONITORUL OFICIAL no. 242, 18 March 2004. Available at: <https://legislatie.just.ro/Public/DetaliuDocument/50508>

Slovakia

- Constitution of the Slovak republic. Available at: <https://www.prezident.sk/upload-files/46422.pdf>
- 321/2002, ZÁKON z 23. mája 2002 o ozbrojených silách Slovenskej republiky. Available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/321/#poznacky.poznamka-25> ,

Slovenia

- Defence Act 103/2004. Available at: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2004-01-4405/zakon-o-obrambi-uradno-precisceno-besedilo-zobr-upb1>, Article 84

Spain

- Spanish Organic Act 5/2005 on National Defence international missions. Available at: <https://www.global-regulation.com/translation/spain/1447032/law-5-2005-of-17-november%252c-national-defense.html>

Türkiye

- Constitutions of the Republic of Turkey (Original title: Türkiye Cumhuriyeti Anayasası). Available at: https://www.anayasa.gov.tr/media/7258/anayasa_eng.pdf

United Kingdom

- Constitution Committee of the UK Parliament, 'Second Report: Constitutional Arrangements for the Use of Armed Force', Chapter 4, 17 July 2013. Available at: <https://publications.parliament.uk/pa/ld201314/ldselect/ldconst/46/4607.htm>.

United States

- Constitution of the United States (Ratified: June 21, 1788). Available at: <https://constitutioncenter.org/the-constitution/full-text>

Non-NATO countries:

Austria

- Bundesverfassungsgesetz über Kooperation und Solidarität bei der Entsendung von Einheiten und Einzelpersonen in das Ausland (KSE-BVG), 21 April 1997. Available at: https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgbIPdf&Dokumentnummer=1997_38_1

Ireland

- The Defence (Amendment) (No. 2), Act 1960. Available at: <https://www.irishstatutebook.ie/eli/1960/act/44/enacted/en/html>

Sweden

- The Constitution of Sweden (Original title: Sveriges grundlagar). Available at: <https://www.government.se/contentassets/7b69df55e58147638f19bdfb0984f97/the-constitution-of-sweden/#:~:text=Sweden%20has%20four%20fundamental%20laws,of%20the%20Instrument%20of%20Government>
- Instrument of Government (adopted 1 January 1975; ICL Document Status 1 January 2015). Available at: https://www.servat.unibe.ch/icl/sw00000_.html



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