

## DISCUSSION PAPER

### **“EU BATTLEGROUPS: USE THEM OR LOSE THEM”**

**SUBMITTED BY THE DELEGATION OF THE NETHERLANDS TO THE  
CFSP/CSDP CONFERENCE, 3-4 APRIL 2014, ATHENS**

**WORKSHOP 3 – DEPLOYING MILITARY FORCES UNDER CSDP,  
PARLIAMENTARY DECISION MAKING PROCEDURES AND PRACTICES**

#### **Introduction**

At the European Council in December 2013, Heads of State and Government, for the first time after the entry into force of the Lisbon Treaty, held a debate on the future of EU’s CSDP. Referring to Europe’s rapidly evolving strategic and geopolitical environment in times of constrained defence budgets, the Council stated that ‘the EU and its Member States must exercise greater responsibilities in response to those challenges if they want to contribute to maintaining peace and security through CSDP together with key partners such as the United Nations and NATO.’<sup>1</sup> The Heads of State and Government made a strong commitment with regard to ‘the further development of a credible and effective CSDP, in accordance with the Lisbon Treaty and the opportunities it offers.’<sup>2</sup> They adopted a number of priority actions to this end.

One of the priority actions concerns the readiness and deployment of the EU Battlegroups. In Article 8 of its conclusions, the Council acknowledges the current shortcomings concerning the deployment of these forces:

*“The EU and its Member States need to be able to plan and deploy the right civilian and military assets rapidly and effectively. The European Council emphasises the need to improve the EU rapid response capabilities, including through more flexible and deployable EU Battlegroups as Member States so decide.”*

The European Council will recur to CDSP in its meeting in June 2015 to evaluate the concrete progress on these matters.

#### **Point of focus: The EU Battlegroups**

In 1999 the EU decided to set up a rapid response force, whose deployment could prevent the escalation of crises at an early stage. This rapid response force was intended to encourage member states to transform their armed forces towards higher readiness and deployability. Secondly, it would enable the EU to carry out crisis management operations independently from NATO. Both objectives entailed closer defence cooperation between EU member states. The concept of a rapid response force evolved into the establishment of the EU Battlegroups. As from 2007, two Battlegroups, both with a personnel strength of 1500, are on standby to be deployed within 5-10 days in military operations for the purpose of maintaining international peace and security.

---

<sup>1</sup> Conclusions of the European Council 19/20 December 2013, EUCO 217/13, paragraph 2.

<sup>2</sup> Ibidem

The EU Battlegroups are joint and combined formations. This implies that they are in general composed of more than one armed service (joint), and that more than one nation contributes to its composition (multinational).

In spite of their readiness, none of them has effectively been deployed so far, which raises the urgent question whether or not the EU should continue with the Battlegroups, or to put it differently: 'Use them or lose them'. The intention of the Netherlands is to use them.

### **Challenges for deployment: parliamentary decision making procedures**

A number of political, financial and/or procedural factors can be distinguished in explaining the non-deployment of the EU Battlegroups. This paper focusses on the procedural factor of parliamentary decision making procedures, the central theme of the workshop.

The deployment of the Battlegroups is subject to the approval by the national decision making authorities of the member states providing military forces to the Battlegroup. The national decision making procedures vary, depending on the nature of constitutional requirements. In some member states, the government is entitled to decide without parliamentary involvement. In other states, parliament is involved in various ways. The extent of parliamentary involvement may vary depending on the specific information, consent or decision making procedures that apply. The consequence of the often comprehensive national parliamentary procedures regarding military deployment is that the requirement of the deployment of EU Battlegroups within 5-10 days is not being met.

### **Suggestions for discussion**

Last year the delegation of the Netherlands made an inquiry through the network of national parliaments' representatives into the divergent national parliamentary procedures and the various degrees of involvement of national parliaments. The results were submitted in a paper at the CFSP/CSDP conference in Vilnius (see annex). It regards a preliminary overview that is yet to be completed.

Participants in the workshop are invited to further elaborate, compare and share their experiences with regard to their decision making procedures and practices and to exchange views on how these procedures relate to the non-deployment of the EU Battlegroups.

In doing so, participants might want to reflect on the following questions:

- What are the key differences in national parliamentary decision making procedures and practices, and what consequences do these have?
- What challenges do these procedures and practices pose for the timely deployment (within 5-10 days) of the EU Battlegroups?
- What opportunities can be identified to tune national parliamentary decision making procedures to the assigned EU Battlegroup task?

#### **Angeliën Eijsink**

Chair of the Standing Committee on Foreign Affairs  
Head of delegation  
a.eijsink@tweedekamer.nl

#### **Frank van Kappen**

Chair of the standing committee on Foreign Affairs, Defence and Development Cooperation Dutch Senate  
Deputy head of delegation  
f.vkappen@eerstekamer.nl

**Annex: Updated Dutch position paper concerning national procedures and practices  
(submitted at the IPC in Vilnius, 4-6 September 2013)**

Dear colleagues,

The effectiveness and visibility of CSDP missions is one of the aspects of the Common Security and Defence Policy that is being reviewed by the High Representative of the Union for Foreign Affairs and Security Policy in the light of the European Council summit of 19 and 20 December 2013.

In the context of this review, the Dutch delegation would seize the opportunity to launch an exchange of views on the parliamentary procedures and practices regarding the national decision-making process on the deployment of armed forces and the participation in international missions, including missions in the framework of the CSDP. Such a discussion could lead to a better understanding and coordination of the various procedures in Member States, in this way strengthening the parliamentary dimension of CSDP missions.

In our opinion the Inter-Parliamentary Conference for the CFSP and the CSDP is a suitable platform for a discussion on this important subject. Our proposal is to request the next, Greek Presidency Parliament to add this topic to the agenda of the conference in Athens in Spring 2014.

To ensure a good and timely preparation, we suggest to consult the delegations on the respective national (parliamentary) procedures in advance of the conference in Athens. We have enclosed an outline of the procedures in the Netherlands as well as in some other EU Member States. We collected this information via the network of national parliaments' representatives in Brussels.

Wishing you a fruitful conference, dear colleagues,

Best regards,

**Angelien Eijsink**

Chair of the Standing Committee on Foreign Affairs  
Head of Delegation to the CFSP and CSDP Conference

**Frank van Kappen**

Chair of the standing committee on Foreign Affairs, Defence and Development Cooperation  
Dutch Senate  
Deputy Head of delegation to the CFSP/CSDP Conference

**SUMMARY: Table depicting parliamentary procedures and practices**

| <b>Variable<br/>→</b>    | <b>Legal source</b>   | <b>Formal decision<br/>making body</b>                                       | <b>Parliamentary<br/>involvement</b>  | <b>Participation<br/>in EU Battle-<br/>group</b>  |
|--------------------------|---|--|---|---|
| <b>EU-MS</b>             |   |  |   |   |
| <i>Austria</i>           | Constitution  |  |   | 2011-I<br>2012-II   |
| <i>Belgium</i>           | Constitution  | The King   | Has to be informed  | 2006-II<br>2007-I<br>2008-II<br>2009-II<br>2014-II  |
| <i>Croatia</i>           | Constitution  | Parliament<br><br>(proposal by<br>government; prior<br>consent of President) | Makes the decision by<br>majority vote                                      | 2012-II   |
| <i>Cyprus</i>            | National Guard<br>Law, 2011 &<br>Law 168, 2003                  | Government   | Has to be informed<br>and consent is needed                                 | 2007-II<br>2009-I<br>2011-II<br>2014-I  |
| <i>Denmark</i>           | Constitution  | Government   | Consent is needed   | -   |
| <i>Estonia</i>           | Constitution &<br>International<br>Military<br>Co-operation act | Parliament   | Makes the decision  | 2011-I  |
| <i>France</i>            | Constitution<br>article 35                                      | Government   | Has to be informed<br><br>and authorizes (if<br>intervention<br>> 4 months) | 2005-I<br>2006-I<br>2006-II<br>2007-I<br>2008-I<br>2008-II<br>2009-II<br>2010-II<br>2011-II<br>2012-I<br>2013-I |
| <i>Germany</i>           | Basic Law &<br>Parliamentary<br>Participation Act               | Government   | Consent is needed   | 2006-I<br>2006-II<br>2007-I<br>2008-I<br>2008-II<br>2010-I<br>2011-I<br>2012-I<br>2012-II<br>2013-I<br>2014-II  |
| <i>Luxem-<br/>bourg</i>  | Law 1992<br>(27th July)   | Government   | Has to be consulted   | 2008-II<br>2009-II<br>2014-II   |
| <i>Nether-<br/>lands</i> | Constitution  | Government   | Has to be informed<br>and consent is needed                                 | 2007-I<br>2010-I  |

|                        |  |            |   |   |
|------------------------|--|------------|---|---|
|                        |  |            |   | 2011-I<br>2012-I<br>2013-II<br>2014-II                      |
| <i>Poland</i>          | Law 17 December 1998                               | President  | Has to be informed  | 2013-I  |
| <i>Slovak Republic</i> | Constitution articles 86 & 119                     | Government | Consent is needed (not necessary in case of obligations resulting from international treaties)  | 2009-II<br>2010-I   |
| <i>Slovenia</i>        | Defence Act  | Government | Has to be informed  | 2007-II<br>2012-II  |
| <i>Sweden</i>          | Constitution                                       | Government | Has to approve  | 2008-I<br>2011-I<br>2013-II                                 |
| <i>UK</i>              | Royal Prerogative                                  | Government | Has to approve (only when government deems this necessary, not regular practice)                | 2005-I<br>2008-II<br>2010-I<br>2013-II                      |
| <i>Spain</i>           | Statutory Law 5/2005, 17 November                  | Government | Has to authorize (prior to the participation of the Spanish Armed Forces in any mission abroad) | 2006-I<br>2008-I<br>2008-II<br>2009-I<br>2010-II<br>2011-II |
| <i>Portugal</i>        | National Defense Law & Law 46/2003, 22nd of August | Government | Has to be informed  | 2006-I<br>2008-I<br>2009-I<br>2010-II<br>2011-II            |

## ***PROCEDURES FOR PARLIAMENTARY APPROVAL OF PARTICIPATION IN INTERNATIONAL PEACE KEEPING AND MILITARY MISSIONS***

### **Content and legal source**

1. The Netherlands, Constitution (added in 2000)
2. Austria, *Bundesverfassungsgesetz über Kooperation und Solidarität bei der Entsendung von Einheiten und Einzelpersonen in das Ausland*, 1997
3. Belgium, Constitution
4. Croatia, Constitution
5. Cyprus, National Guard Law 2011
6. Denmark, Constitution
7. Estonia, Constitution and International Military Co-operation Act, amended in 2012
8. France, Constitution, amended in 2008
9. Germany, Deployment of Armed Forces Abroad (*Parlamentsbeteiligungsgesetz*), 2005
10. Luxembourg, *Loi relative à la participation du Grand-Duché de Luxembourg à des opérations pour le maintien de la paix (OMP) dans le cadre d'organisations internationales*, 1992
11. Poland, Law of 17 December 1998 on the rules of the use or residence of the Polish Armed Forces outside the country
12. Slovak Republic, Constitution
13. Slovenia, Defence Act
14. Sweden, Constitution
15. United Kingdom, General practices, no formal laws, although the practices are being revisited which might lead to codification
16. Spain, Statutory Law 5/2005, 17 November
17. Portugal, National Defense Law & Law 46/2003, 22nd of August

## 1. THE NETHERLANDS

The involvement of the Dutch Parliament (House of Representatives and Senate) in the decision making process regarding deployment of the armed forces is derived from article 100 of the Dutch Constitution (added in 2000). This article stipulates:

1. The Government shall inform the States General in advance if the armed forces are to be deployed or made available to maintain or promote the international legal order. This shall include the provision of humanitarian aid in the event of armed conflict.
2. The provisions of paragraph 1 shall not apply if compelling reasons exist to prevent the provision of information in advance. In this event, information shall be supplied as soon as possible.

The "Review Framework" (*Toetsingskader*) has become the general instrument to assess the government's intention to deploy the armed forces and structures the debate between government and parliament on individual military operations. This Review Framework - a list of particular political and military points of interest - was first introduced in 1995 and was linked to Article 100 of the Constitution - after that article came into force. The Review Framework is a flexible instrument as per individual mission, a decision will be made on which elements of the framework should be addressed. In general, the review will include an assessment of the political context of the conflict, the countries participating, the financial means available, the feasibility of the mission, the risks, the expected duration of deployment and the mandate of troops.

In a letter to Parliament, the government explains its decision along the lines of the Review Framework, followed by parliamentary scrutiny (predominantly in the House of Representatives). While parliamentary approval is not officially needed for deployments to start or continue, in practice the government will always strive for broad approval.

## 2. AUSTRIA

Austria has a special constitutional law regarding this matter but there seems to be no translation into English, only a German version:

*Bundesverfassungsgesetz über Kooperation und Solidarität bei der Entsendung von Einheiten und Einzelpersonen in das Ausland*

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10001504>

For further information, see also Federal Constitution Para. 23f 1-4 (go to pdf-version):

[https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erv&Dokumentnummer=ERV\\_1930\\_1&ResultFunctionToken=def8b4c9-67ef-48c6-aec0-d29207a1c312&Position=1&Titel=Federal+Constitutional+Law&Quelle=&ImRisSeit=Undefined&ResultPageSize=50&Suchworte](https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erv&Dokumentnummer=ERV_1930_1&ResultFunctionToken=def8b4c9-67ef-48c6-aec0-d29207a1c312&Position=1&Titel=Federal+Constitutional+Law&Quelle=&ImRisSeit=Undefined&ResultPageSize=50&Suchworte)

## 3. BELGIUM

Article 167, §1, second alinea, of the Constitution stipulates that the King is in command of the armed forces and that he establishes the state of war as well as the end of the hostilities and that he informs thereupon both the chambers of the parliament as soon as the interest and the security of the State allow it and together with the relevant announcements.

The Belgian Constitution does not mention anything around the role of the national parliament for missions in foreign countries.

Following the recommendations of the Rwanda Committee (on the death of Belgian military at the start of the civil war (genocide) in Rwanda) arrangements have been made to inform the national parliament of the ongoing missions abroad.

A Committee for the monitoring of missions abroad has been put in place composed of members of the Belgian Senate and of the House of Representatives.

This committee meets on demand of the Chairman, the bureau, a member of the Committee or a member of the Government. Normally the Committee meets once a month or at least at the start of a new mission abroad, at the moment of the relief of troops, in cases of serious incidents and at the end of an operation. The meetings are behind closed doors (in camera). The Minister of Defence is in charge to present the relevant information about the missions and to answer the questions of the Members of the Committee. The Committee is only involved after the start of a mission and so does not have to approve the missions. The kind of information transmitted at these meetings is not specified, but is given under the cover of Confidentiality.

#### **4. CROATIA**

In short, decision on deployment of Croatian armed forces in international crisis management and peacekeeping missions and operations is brought by the Croatian Parliament with a majority vote of all of its members, pursuant to a decision by the Government and with the prior consent of the President of the Republic.

##### Constitutional basis:

Article 7 of the Constitution stipulates, amongst others, that "the armed forces of the Republic of Croatia may cross its national borders or operate across its borders pursuant to a decision of the Croatian Parliament proposed by the Government of the Republic of Croatia with the prior consent of the President of the Republic of Croatia."

Furthermore, "the armed forces of the Republic of Croatia may cross the national borders of Croatia for the purpose of military exercises and training within the framework of international organisations to which Croatia has acceded or is in the process of acceding pursuant to international treaties and for the purpose of rendering humanitarian assistance, pursuant to a decision by the Government of the Republic of Croatia with the prior consent of the President of the Republic of Croatia".

Article 7 of the Constitution is available at the following web page (in English):

<http://www.sabor.hr/Default.aspx?art=2407>.

##### Legal basis:

Article 39(2) of the Act on Defence (*Zakon o obrani*; OG 73/2013) stipulates, amongst others, that the armed forces may, under the conditions provided for by the Constitution, international treaties and law, participate in peace-support operations, crisis-response operations, humanitarian operations and other activities outside the national borders, while Articles 54 and 55 of the Act prescribe, in detail, the use of the armed forces in peace-support operations, crisis-response operations, humanitarian operations and other activities outside the national borders.

The aforementioned Act is available at the following web page (only in Croatian):

[http://narodne-novine.nn.hr/clanci/sluzbeni/2013\\_06\\_73\\_1452.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_73_1452.html).



## **5. CYPRUS**

There is no specific reference in the Constitution of the Republic of Cyprus regarding the involvement and approval by the Parliament in such matters. Hence, according to the presidential system in place, which provides for a clear separation of powers, the House of Representatives cannot force the executive branch to submit to Parliament relevant bills for approval. However, in the framework of parliamentary control, the competent Standing Committee of the House can invite the Minister and/or representatives of the relevant Ministry to attend a Committee meeting to inform the Chairman and Members of the Committee on the issue.

On these matters, the National Guard Law of 2011 applies. Under Article 64 (3) (c) of the Law, the Minister of Defense, with the approval of the Council of Ministers, may order any member of the force to move abroad and serve in an international organization or any service of the EU or participate in peacekeeping missions of an international or European organization for the purposes of fulfilling the international obligations or commitments of the Republic of Cyprus.

The House of Representatives does not have a say on these issues, where decisions are taken by the Council of Ministers.

According to Law 168 (I) of 2003, which refers to the disposal of facilities, capabilities, units or personnel of the Armed Forces in the frame of international obligations or commitments of the Republic, any decision of the Council of Ministers pertaining to the disposal facilities, tools, units or personnel of the Armed Forces for participation in missions within or outside the territory of the Republic, is submitted before the House of Representatives for approval.

Cyprus participates in EU and UN missions, whose activation requires a UN Security Council Resolution. There is no national law provision to alter the policy for each mission. The units participating in missions follow the policy for the use of violence of the mission as agreed unanimously by the EU institutions, in the case of the EU and the relevant units of the UN, in the case of UN operations (Operation Plan, Rules of Engagements, etc.).

## **6. DENMARK**

The Danish Constitution establishes the framework for the deployment of soldiers. It is apparent that the government cannot without consent of the Folketing send Danish forces in an operation in which they may have to use force against foreign states. In practice the consent of the Folketing is normally obtained in all cases where Danish forces are to use force to solve their tasks.

The parliamentary consent is obtained by a parliamentary decision dealt with by the Defense Committee. In other cases regarding the deployment of Danish soldiers the government can engage the Foreign Policy Committee in order to obtain the consent.

## **7. ESTONIA**

According to the Estonian Constitution and the International Military Co-operation Act the Parliament takes the decision to participate in international military operations (in Article 5 operations the decision of the Parliament has already been taken by ratifying the North

Atlantic Treaty and the actual deployment can be decided by the Government). The procedure of the Parliament's decision is the following:

1. The necessary documents for the decision are drafted by the Ministry of Defence and approved by the Government, who then forwards them to the Parliament for adoption (technically, the Parliament could prepare the documents itself as well). When taking the decision to participate in an international military operation the Parliament sets the maximum duration of the deployment, the area where the Estonian units are to be deployed and also the maximum number of troops.
2. After the Parliament's decision the Minister of Defence orders the specific unit to commence participation in the operation. The President, the Board of the Riigikogu and the chairman of the National Defence Committee of the Parliament are immediately informed of that order.
3. Once a month the Defence Forces give an overview of all the operations to the National Defence Committee (that is not a requirement by law).

The International Military Cooperation Act is also available in English:

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X90011K5&keel=en&pg=1&ptyyp=RT&tyyp=X&query=rahvusvahelise+s%F5jalise+koost%F6%F6>

## 8. FRANCE

According to the French constitution, in its article 35: A declaration of war shall be authorized by Parliament. The Government shall inform Parliament of its decision to have the armed forces intervene abroad, at the latest three days after the beginning of the intervention. It shall detail the objectives of the intervention. This information may give rise to a debate, which shall not be followed by a vote.

Where the intervention shall exceed four months, the Government shall submit the extension to Parliament for authorization. It may ask the National Assembly to make the final decision. If Parliament is not in session at the end of the four-month period, it shall express its decision at the opening of the following session.”

So the French parliament is involved in different stages :

- It should be informed at the beginning (information under 3 days)
- It should authorize the pursuance of the intervention if it lasts more than 4 months

The procedure is rather new: it is the result of a change of the Constitution in 2008. The first application of this rule happened on September 22<sup>nd</sup> 2008, when the continuation of French intervention in Afghanistan was authorized.

More than these constitutional rules, the minister of Defence can be received by the French parliament, in particular the Commission on foreign affairs, defence and armed forces of the French Senate, in order to have a formal or informal dialogue on these interventions.

Focus on the Serval operation :

- Information of the Parliament on January, 16<sup>th</sup> 2013
- Debate on the pursuance on April, 22<sup>nd</sup> 2013
- Meetings almost every week in the French Parliament with Minister of Defence

## **9. GERMANY**

1) Act governing Parliamentary Participation in Decisions on the Deployment of Armed Forces Abroad of 18 March 2005 (Parlamentsbeteiligungsgesetz vom 18. März 2005 (BGBl. I S. 775), unofficial translation), 2) The influence of the Defence Committee on international missions of the Bundeswehr outside national and Alliance defence (description of the Defence Committee's role with regard to international missions of the Bundeswehr, cf. link on the Bundestag web page:

[http://www.bundestag.de/htdocs\\_e/bundestag/committees/a12/aufgaben/aufg06.html](http://www.bundestag.de/htdocs_e/bundestag/committees/a12/aufgaben/aufg06.html)

## **10. LUXEMBOURG**

Participation to this type of missions is regulated by a 1992 law from 27th of July (see end of mail):

The Government is authorized to instigate participation in peacekeeping operations that are implemented within the framework of international organizations whereof the country is a member. Participation is decided by the Government in council, after consultation with the Foreign and European Affairs and Defence Committee. For each operation, a Grand Ducal regulation adopted on the mandatory advice of the State Council and the Working Committee (Foreign and European Affairs) decides the implementation strategy.

See for more detailed information:

*Loi du 27 juillet 1992 relative à la participation du Grand-Duché de Luxembourg à des opérations pour le maintien de la paix (OMP) dans le cadre d'organisations internationales.*

## **11. POLAND**

The legal basis of the Polish Army operations outside the country is the Law of 17 December 1998 on the rules of the use or residence of the Polish Armed Forces outside the country (Dz. U. nr 62, poz. 1117). According to this Law, the President of the Republic of Poland takes the final decision on sending Polish units to implement foreign missions. The President takes such a decision at the request of the Council of Ministers or Prime Minister, at the same time informing the Marshals of the Sejm and the Senate. The decision to use Polish Armed Forces abroad must contain precise data on the number, structure, weaponry and performance of tasks.

## **12. SLOVAK REPUBLIC**

*Legal provision and procedures (Constitutional and legislation framework) regarding the approval of the participation of the Armed Forces of the Slovak Republic in the international crisis management or peacekeeping missions (eg. UN, NATO or EU battle groups):*

The Constitution of the Slovak Republic no. 460/1992 Collection of Law (hereinafter referred to as “the Constitution”)) as amended strictly regulates the approval process of the deployment of the Armed Forces of the Slovak Republic outside of the territory of the Slovak Republic as well as the approval process for the presence of the foreign armed forces on the territory of the Slovak Republic and transit of such forces through national territory.

*According to Article 86 of the Constitution:*

*“The powers of the **National Council of the Slovak Republic (parliament)** shall be particularly to:*

*...*

*k) **give consent for despatching** the armed forces outside the territory of the Slovak Republic, if it does not concern a case stated in Art. 119, letter p),*

*l) approve the presence of foreign armed forces on the territory of the Slovak Republic.”*

*According to the Article 119 of the Constitution:*

*“The **Government** shall decide as a body:*

*...*

*o) **on despatching** the armed forces outside the territory of the Slovak Republic **for the purpose of humanitarian aid, military exercises or peace observing missions**, on the consent with the presence of foreign armed forces on the territory of the Slovak Republic for the purpose of humanitarian aid, military exercises or peace observer missions, on consent with the passing of the territory of the Slovak Republic by foreign armed forces,*

*p) on despatching the armed forces outside of the territory of the Slovak Republic if it regards performance of obligations resulting from international treaties on joint defence against attack for a maximum period of 60 days; the Government shall announce this decision without undue delay to the National Council of the Slovak Republic,”*

The Constitution as above stated **divides the authority to decide on the deployment** of the Armed Forces of the Slovak Republic **between** two constitutional bodies of the state – **the Parliament** (the National Council of the Slovak Republic) and **the Government (after previous recommendation by the Security Council of the Slovak Republic)**. The authority of the appropriate constitutional body depends on the purpose of the deployment of the armed forces. In cases of humanitarian aid, military exercises or peacekeeping observation missions the decision on the deployment of the armed forces falls within the competence of the Government of the Slovak Republic. It is also authorised to decide on the deployment of the Armed Forces of the Slovak Republic for the purpose of the fulfilment of obligations arising from the international treaties on joint defence against attack (for a 60 days period at maximum).

In all other cases (e.g. military trainings, NATO/UN/EU- led operations, etc.) the approval authority is by the Constitution given to the parliament.

The Act No. 321/2002 Col. on the Armed Forces of the Slovak Republic as amended stipulates strictly the purposes/tasks for which the Armed Forces of the Slovak Republic are allowed to be used. It also legally defines the constitutionally declared terms as “military exercise, humanitarian aid, peace observing mission and military operation”. The Act No. 321/2002 stipulates precisely the procedure to be taken in order to get the approval of the appropriate constitutional body for the deployment/presence/transit of the Armed Forces of the Slovak Republic.

**The document** to be submitted to the Government (or later on to the parliament as well, in cases where parliamentary decision is required) **must contain** exact data that are framing national mandate for the armed forces to be deployed. Those required data are: the names of the units and number of the forces to be deployed, the purpose of the deployment including tasks that the armed forces will be exclusively authorised to perform, the system of the command and control during the deployment, place – exact location where they are authorised to range, the time framework of the deployment (the beginning and the ending dates), the specification of the military equipment, military technology, military material and the provision of services. The Government or the parliament **shall decide on any change** of the mission mandate or the territory to which armed forces shall be deployed (**which means any change of the above-mentioned data**). According to the quoted Act, only the Minister of Defence of the Slovak Republic is authorised to submit this document for the approval to the Government. The standard text of such document refers to a valid international legal title for the mission to which the military personnel is deployed to fulfil the military tasks.

Any deployment of the armed forces may be performed exclusively on the basis of the legally approved mandate. (There are and there were **no military missions** without appropriate approval given by the respective constitutional body).

The decision authority of the Government on deployment of armed forces of the Slovak Republic outside of the territory of the Slovak Republic in order to perform obligations resulting from international treaties on joint defence against attack for a maximum period of 60 days is applicable strictly in case of article 5 of Washington Treaty cases.

Within the approval process for the deployment of the armed forces other ministries are authorized to place their comments as well as the Security Council of the Slovak Republic. In case, the National Council of the Slovak Republic holds the power to decide, the parliamentary Defence and Security Committee and Foreign Affairs Committee are authorized to give their consent prior to be approved in the plenum of the National Council of the Slovak Republic.

### **13. SLOVENIA**

The Slovenian Constitution does not mention appointment of military units in international missions.

The National Assembly's competences regarding the armed forces include only situations in which the peace in the country is endangered: in that case, the National Assembly decides on the use of the defence forces. In the event that the National Assembly is unable to convene, the President of the Republic shall decide on matters from the first and second paragraphs of this article. Such decisions must be submitted for confirmation to the National Assembly immediately upon it next convening.

The appointment of military missions abroad is however defined in the Defence Act, and it is solely in the competence of the Government.

Members of Slovenian armed forces are appointed to international missions only by the Government, while the National Assembly /committee on defence/is only informed of it.

In the year 2010, in view of appointment of the members of Slovenian armed forces in Afghanistan, there was a debate that the National Assembly should give its approval to the appointment. At that time the political groups of the then coalition parties SD and Zares suggested the change of legislation, which however never happened.

#### **14. SWEDEN**

Please find below the link to the Instrument of Government (constitutional law) <http://www.riksdagen.se/Global/dokument/dokument/laws/the-instrument-of-government-2012.pdf> and in Chapter 15 paragraph 16:

The Government may send Swedish armed forces to other countries or otherwise deploy such forces in order to fulfil an international obligation approved by the Riksdag. Swedish armed forces may also be sent to other countries or be deployed if:

1. it is permitted by an act of law setting out the conditions for such action; or
2. the Riksdag permits such action in a special case.

In each case the Government has to propose a bill to the Riksdag and it has done so several times. The bill is referred to the committee on Foreign Affairs which calls to constitute a joint committee with the committee on Defence. This joint committee is ad hoc, but has otherwise similar duties as a regular committee. However, it has a limited functioning period.

Unfortunately no information in English is available. Via the following link to the Swedish site the latest decisions taken to deploy forces may be viewed:

<http://www.riksdagen.se/sv/Utskott-EU-namnd/Sammansatta-utrikes--och-forsvarsutskottet/Beslut-i-korthet/>

#### **15. UNITED KINGDOM**

Key points in the response from the Foreign Affairs Committee in the House of Commons:

The UK does not have a written constitution. Under the Royal Prerogative, the Government acts on matters pertaining to defence and the Armed Forces on behalf of the Crown. There is no legally established role for Parliament in such matters, but the House of Commons has a role based on conventions built up through precedents, such as the vote on military action to Iraq in 2003.

There are no procedures or arrangements set down in legislation - only a general understanding that Parliament will be given a chance to express a view.

There is no formal procedure/arrangement between the UK Government and Parliament setting out Parliament's involvement in these matters. It is for the Government to decide whether or not to initiate a plenary vote on such issues (although other members can call a vote agreeing a view on a military operation, this would not bind the Government to act in a certain way). As examples, the Government has never put to a vote the commitment of UK troops in Afghanistan, but retrospectively sought Parliament's approval for the deployment of forces to Libya (three days after it had happened).

Formalising the arrangements for Parliament's involvement in these decisions has been suggested, and the current Government have indicated that they are 'exploring' this option, but it seems unlikely to happen soon.

The "Waging war" reports mentioned are available directly here:

<http://www.publications.parliament.uk/pa/ld200506/ldselect/ldconst/236/236i.pdf>  
<http://www.publications.parliament.uk/pa/ld200607/ldselect/ldconst/51/51.pdf>

There is currently an inquiry which is revisiting the issue – which is evolving . The latest position is best set out by Government Ministers in their oral evidence to the Constitution Committee on 26 June: [http://www.parliament.uk/documents/lords-committees/constitution/Armed%20Force/ucCONST260613ev4\(NB\).pdf](http://www.parliament.uk/documents/lords-committees/constitution/Armed%20Force/ucCONST260613ev4(NB).pdf). There is no Government memorandum.

## 16. SPAIN

The approval by the Cortes Generales of the participations of Spanish military units in international crisis management or peace keeping missions is regulated not in the Constitution, but in the Statutory Law 5/2005, 17 November, more specifically its articles 4.2, 17 and 18, which are reproduced below in its original version. This Law increased the role of Parliament in these matters.

Briefly, this Law states that the Congress of Deputies authorisation is requested prior to the participation of the Spanish Armed Forces in any mission abroad. An urgent authorisation procedure is foreseen, and in exceptional circumstances, even a decision that has already been executed can be, a posteriori, ratified by the Congress of Deputies.

In all cases, the Government will inform the Congress, before one year, about the development of the operations authorised abroad.

### ***Artículo 4. Las Cortes Generales.***

*1. A las Cortes Generales les corresponde:*

*a) Otorgar las autorizaciones previas para prestar el consentimiento del Estado a obligarse por medio de los tratados y convenios internacionales, así como las restantes autorizaciones previstas en el artículo 94.1.b) de la Constitución.*

*b) Aprobar las leyes relativas a la defensa y los créditos presupuestarios correspondientes.*

*c) Debatir las líneas generales de la política de defensa. A estos efectos, el Gobierno presentará las iniciativas correspondientes, singularmente los planes de reclutamiento y modernización.*

*d) Controlar la acción del Gobierno en materia de defensa.*

*e) Acordar la autorización a que se refiere el artículo 63.3 de la Constitución.*

*2. En particular, al Congreso de los Diputados le corresponde autorizar, con carácter previo, la participación de las Fuerzas Armadas en misiones fuera del territorio nacional, de acuerdo con lo establecido en esta Ley.*

### ***Artículo 17. Autorización del Congreso de los Diputados.***

*1. Para ordenar operaciones en el exterior que no estén directamente relacionadas con la defensa de España o del interés nacional, el Gobierno realizará una consulta previa y recabará la autorización del Congreso de los Diputados.*

2. *En las misiones en el exterior que, de acuerdo con compromisos internacionales, requieran una respuesta rápida o inmediata a determinadas situaciones, los trámites de consulta previa y autorización se realizarán mediante procedimientos de urgencia que permitan cumplir con dichos compromisos.*

3. *En los supuestos previstos en el apartado anterior, cuando por razones de máxima urgencia no fuera posible realizar la consulta previa, el Gobierno someterá al Congreso de los Diputados lo antes posible la decisión que haya adoptado para la ratificación, en su caso.*

**Artículo 18. Seguimiento de las operaciones.**

*El Gobierno informará periódicamente, en un plazo en ningún caso superior a un año, al Congreso de los Diputados sobre el desarrollo de las operaciones de las Fuerzas Armadas en el exterior.*

## **17. PORTUGAL**

The Portuguese Constitution states in article 163 (i), that the Portuguese Parliament supervises the involvement of military contingents and security forces abroad, as laid down by law.

The National Defense Law (Reinforced Law 1-B/2009, 7th July) and the Law 46/2003, 22nd of August, on monitoring the involvement of Portuguese military contingents abroad are the referred legal basis.

The National Defense Law establishes that the Government decides on the involvement of Portuguese military contingents abroad, but previously the Government should inform the President of the Republic and the Portuguese Parliament and should obtain a non-binding opinion drawn up by the Superior Council of National Defense, which includes, among others, the Chairman of the National Defense Parliamentary Committee and two other Members of the Parliament. The law also emphasizes that the Parliament should monitor the involvement of Portuguese military contingents abroad.

The Law 46/2003, 22nd of August, regulates how the Parliament monitors the involvement of Portuguese military contingents abroad (international crisis management, peace keeping missions and other missions due to international commitments by Portugal). The Law establishes that the Government informs the Parliament in advance for assessment and follow-up. In such communication the Government should include, inter alia, the request for such involvement accompanied by the reasons; the draft decision of the involvement; the military means engaged, the estimated risks involved and the expected duration of the mission; and further elements and informations considered useful. Usually the communication is made by the National Defense Minister at a hearing in the National Defense parliamentary committee.

During the mission, the Government should keep the Parliament informed via regular reports (one each semester) and every time the Parliament requests. Within the Parliament, the competent committee is the National Defense Committee. At the end of the mission, the Government should present a final report to the Parliament.

The Law can also be found here:

<http://www.presidenciaue.parlamento.pt/CDdefesa/docs/Lei462003020306cgen.pdf>