

## European defence: out of (parliamentary) control?

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Guido Westerwelle, the Minister for Foreign Affairs, once claimed that "The long-term goal is the establishment of a European army under full parliamentary control." The current situation looks rather different: an intergovernmental "Common Security and Defence Policy" (CSDP) lacking parliamentary control. How far are we from Westerwelle's dream?

### **Democracy and defence: two false friends?**

Actually, "parliamentary control" – the oversight of the government by the Parliament – is not so obvious as far as defence is concerned. Defence has been one of the government's exclusive prerogatives in the name of secrecy, efficiency and urgency for long. This has been accentuated as governments cooperate in defence at the international level as they set the agenda, know other governments' positions and can "market" the issue to the public. It is then difficult for a single national parliament to oppose any military intervention which has received international backing.

Aside from this, there are also good reasons to involve parliaments in defence matters. First, going to war – and in the case of the European Union (EU), sending an operation abroad – is a political and moral choice. Secondly, it entails sending soldiers and requires funds, two key functions of parliaments. Third, when Western powers want to protect civilians in Libya in the name of democratic values, they ought to respect these values themselves. Furthermore, in the case of the EU, a single decision may have long term implications. For instance when a member state agrees to participate in one of the EU "battle groups", it may face the consequence should the battle groups be later sent overseas. Ideally, parliaments

should have a say on defence before the decision to send troops is made ("prior approval"), or at least they should be able to control how the mission goes.

### **Variations on national control**

. Some national parliaments do control their governments as regards defence policy, but few and with considerable variations. As studied by Anghel, Born, Dowling and Fuor in the book edited by Peters, Wagner and Deitelhoff, prior approval is only a procedure in use in Finland, Luxembourg, Sweden and Ireland. The Austrian, German, Cypriot, Estonian, Dutch and Spanish parliaments did approved some or all missions, but after the decision had been taken at the EU level which means little manoeuvre to say no. The German Parliament still stands out as quite of a model, for historical reasons, but the Bundestag can still not alter the decisions that are made. In France, Belgium, Poland, Portugal and the United Kingdom, parliaments were only consulted on EU missions. In France however, a recent modification of the Constitution in 2008 gives the parliament a right of information on troops deployments and of consent for deployments longer than four months Finally, the Bulgarian, Czech, Romanian and Greek parliaments do not hold formal powers regarding participation in CSDP operations.

Prior approval is even less frequently required for civilian missions, although they can for instance involve sending policemen to Afghanistan. Furthermore, parliament's approval is sometimes limited to a vote in a specialized committee. In an extreme case described by Bono, only the President of the Delegation of the European Union in the French National Assembly lifted the scrutiny reserve on the decision to send French soldiers with the Artemis mission to Congo! As regards financing, only the Italian and German parliaments approve an estimated budget for each mission, other parliaments only vote on an annual defence budget, as part of the annual budget. Parliaments are also dependent on governments for information and they are sometimes not so willing to control their governments if they are from the same political parties.

### **Increasing but still limited control by the European Parliament**

Then what about controlling defence directly at the European level? Here again parliamentary control is lacking, though increasing.

Indeed, according to article 36 of the Treaty on European Union, the European Parliament is only informed and consulted "on the main aspects and the basic choices" of the Common Foreign and Security Policy (CFSP) and since the Lisbon Treaty also formally on the Common Security and Defence Policy (CSDP). The treaty also foresees a biannual debate in the Parliament with the High Representative for Foreign Affairs.

Nevertheless, the European Parliament has asserted itself in that area. Since 2004, there is a special "subcommittee on security and defence". The European Parliament has adopted several of its own initiative reports and resolutions. For instance, it adopted a [resolution](#) on 27 September 2007 approving the operation in Chad. Additionally, its annual report on Common Foreign policy is now completed by a specific annual report on the Common Defence policy. The [2011 report](#) was quite innovative as it evaluated each CSDP operations criticizing notably the operation in Afghanistan and asking to end the military operation Althea in Bosnia-Herzegovina. It also notably called for the setting up of a permanent EU Headquarters, a controversial issue among Member states.

Since 2002, an [inter-institutional agreement](#) with the Council has allowed the President of the European Parliament and the Chair of the Foreign Affairs Committee to access some

confidential information on CSDP operations. But this means that only a few persons have access to the information, often only in the Council's buildings and they cannot discuss the information with their colleagues. So the European Parliament does not have any formal say in the launch of a single CSDP operation and its control is legally limited.

On the other hand, the European Parliament has attempted to control the CSDP through its budgetary powers, and succeeded to some degree. The [1999 inter-institutional agreement](#) between the European Parliament, the Council and the Commission compelled the three institutions to agree on the level of expenditures within the CFSP "chapter", overall and across different articles. The Council is compelled to provide information about the financial implications of CSDP in an annual report and to inform the Parliament with an estimate of the costs of an operation after deciding it. After a first inter-institutional crisis on the CSDP budget in 2002, the [revised 2006 inter-institutional agreement](#) institutionalized the practice of five consultation meetings each year and imposed deadlines on the Council. The power of the Parliament is however not unlimited as there are still not a budgetary line for each mission, it cannot specify conditions on the way the money is spent and the Commission has more autonomy for the use of funds in comparison with other parts of the EU budget. Furthermore, the European Parliament can only control the budget of "civilian missions" and not for the military ones, which are directly financed by the Member states.

### **Transnational oversight?**

The advocated solution is to improve cooperation and exchange of information between national and European parliaments through a collective or transnational control. Room for improvement in this regard is however quite important.

Actually, there was the "Western European Union Assembly". This assembly gathering national members of parliament was created in 1954 as part of the "Western European Union", a precursor of a "European defence". With a general secretariat, it developed some control powers beyond its original mandate, and renamed itself in 2003 as the "Inter-parliamentary European Security and Defence Assembly" to claim oversight over the EU's CFSP/CSDP. However, the WEU Assembly's powers were still very limited, up to the point that even the European Parliament argued for its dissolution. In any case, the "Western European Union" ceased to exist on 30 June 2011 after the termination of the treaty by the Member states.

Now the main forum for an exchange of information between national parliaments and the European Parliament is the COSAC (Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union). Nevertheless, it is dealing with EU affairs in general and not only with CFSP/CSDP. Specifically for CFSP/CSDP, there are a Conference of Defence Committee Chairs and joint parliamentary meetings of the committees of foreign affairs and defence of the national parliaments and of the European Parliament. Finally, the Lisbon Treaty foresees a "Conference of Community and European Affairs Committees of Parliaments of the European Union" (what could be COSAC with another name) to promote exchange of information and best practice between national parliaments and the European Parliament, including on defence policy ([Article 10 of the Protocol n°1 on the role of the national Parliaments](#)).

But the proliferation of such bodies does not really address the lack of control over European defence. The biggest problem in such cooperation is actually the discrepancy of powers between national parliaments and therefore the "exchange of best practices" is of little value

up to now. The European Parliament should probably take the leadership of such cooperation. It has often seen national parliaments as competitors, but it may be in the interest of all parliaments to exchange their respective information. Concretely, the annual European Parliament's rapport on CFSP/CSDP previously evoked could be written also on the basis of "opinions" from the national parliaments.

In the end, full parliamentary control over European defence is far from being a reality. National parliaments have been sidelined by their governments, the European Parliament has increased its control but can still not influence decision making, and the cooperation between all these parliaments is not sufficient. The European Parliament has asserted itself in the area of foreign policy in general and should take the lead, while not forgetting its national counterparts as long as there is not one "European army".

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## Pour aller plus loin

### On Nouvelle Europe website

- Dossier d'octobre 2011 : Europe et défense : mutualiser les forces ?

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