



**Geneva Centre for the Democratic Control of
Armed Forces (DCAF)**

Occasional Paper - № 12

**Parliamentary Control of Military Missions:
Accounting for Pluralism**

Wolfgang Wagner

Geneva, August 2006

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About the Author

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Parliamentary Control of Military Missions: Accounting for Pluralism

Wolfgang Wagner

1. INTRODUCTION¹

Since the end of the Cold War, governments of Western democracies have frequently been asked to contribute troops to multilateral military missions ranging from rather limited peace-keeping operations (such as in Macedonia in 2001) to demanding combat missions (such as in Kosovo in 1999), state-building endeavours (such as in Bosnia since 1995 and Afghanistan since 2001) or full-scale war (as in Iraq in 2003). Governments have responded to these calls in different ways, depending on the requirements of the mission, their (perceived) interests in the conflict, their resources and their identity. For example, Germany contributed troops to IFOR/SFOR and “Allied Force” but not to “Desert Storm” and the war against Iraq in 2003, from which France and Belgium also abstained. Whereas these differences in *policy* have been subject to considerable debate and research (cf., for example, Müller 2004), equally striking differences in domestic *politics* have received less attention; whereas the German government could not commit troops without prior endorsement of the *Bundestag*, French and British governments were free to decide about participation without even consulting parliament. Whereas different decision-making procedures have occasionally been treated as an explanatory factor of policy,² this paper is interested in explaining why decision-making procedures, and parliamentary involvement in particular, have been so diverse in the first place. Put differently, this paper asks why democracies differ as regards the level of parliamentary control over military missions.

For the purpose of such an inquiry, it seems reasonable to study the entire realm of military missions ranging from peace-keeping and peace-enforcement missions to full-scale war. Peace-support missions have certainly been the most common form of military action by Western democracies but “ordinary wars” have not disappeared from international politics as the US-led campaign against Iraq has demonstrated. Moreover, distinctions between peace-keeping, “robust” peace-keeping, peace-enforcement, “humanitarian intervention” and war have been fluid and of course highly politicised. As a consequence, this study refrains from excluding any particular type of military mission and instead addresses the entire range of military missions.

The paper proceeds as follows: Section 2 introduces the sample of countries under consideration in this study. Moreover, it discusses several dimensions of parliamentary control and argues that the legal power to give prior approval of deployments is the most important one. Whereas a comprehensive portrait of deployment legislation is given in the appendix, section 2 gives a brief overview of how deployment decisions are made in

¹ I would like to thank Felix Berenskoetter, Hans Born, David Bosold, Heiner Hänggi, Kai Oppermann, Dirk Peters, Niklas Schörnig and Sascha Werthes for helpful comments and suggestions.

² Hartwig Hummel and Stefan Marschall (both university of Düsseldorf/Germany) are currently carrying out a research project on that question.

the countries under consideration. Section 3 presents the state of the art of analysing parliamentary control of military missions. Section 4 then presents five explanatory factors that can be considered to influence the level of parliamentary control. According to a “locking-in” hypothesis, parliaments are likely to be powerful, if a country has only recently become a democracy because democratic politicians aim to limit future governments’ room for manoeuvre in security and defence politics. Following the “lessons-learnt” hypothesis, a country is likely to have a powerful parliamentary control over the use of force if it previously suffered from a failed military mission. Furthermore, the “colonialism” hypothesis argues that countries may inherit a low level of parliamentary control over the use of force from a colonial past. The “type-of-democracy” hypothesis emphasises that parliament’s competencies also depend on parliament’s overall position within the political system. Finally, the “internationalisation” hypothesis holds that a country’s level of parliamentary control decreases with the level of multinational integration of its armed forces. Possible ways to refine the hypotheses in order to improve their explanatory power are discussed in section 5.1. which is followed by a discussion of policy implications (5.2.).

2. PARLIAMENTARY CONTROL OF MILITARY MISSIONS: DIFFERENCES BETWEEN WESTERN DEMOCRACIES

In order to examine why the level of parliamentary control of military missions differs vastly across Western democracies, we have to establish in the first place which countries we are interested in and what exactly parliamentary control of military missions refers to.

The selection of countries for this study has been guided by two considerations. First, in order to concentrate on differences across democratic states, the democratic character of the countries examined should be beyond doubt. For that purpose, the POLITY IV database serves as a yard-stick. The POLITY IV database has been developed at the University of Maryland and is widely acknowledged as a reliable collection of data measuring the degree of democracy in a large number of countries.³ POLITY IV combines measures on the openness of recruitment, on the extent of decision constraint on the amount of participation and on the complexity of decision structures in order to assign a democracy score between “0” and “10”. In order to analyse only countries whose democratic character is uncontested, only countries with a democracy score of “9” or “10” are included in this study. Second, in order to limit the heterogeneity of the group under examination, the project concentrates on countries which are members of the Organisation for Economic Cooperation and Development (OECD), i.e. on countries with a high level of economic development (broadly: “Western democracies”). As a result, the following group of countries will be examined: Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Germany, Finland, France, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, New Zealand, the Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland, the United Kingdom and the United States.

Before an explanation for different levels of parliamentary control of military missions can be developed, a brief discussion of what makes parliamentary control effective is in order.⁴ Scholars at the Geneva Centre for the Democratic Control of the Armed Forces (DCAF) have distinguished three factors determining the effectiveness of parliamentary accountability: ‘Authority’ refers to “the power which parliament uses to hold government accountable” and which is “derived from the constitutional and legal framework as well as customary practices” (Born 2004: 209f.). In general, parliament’s powers in the realm of military missions are not entirely different from its powers in other issue areas. Thus, parliament has major legislative powers which it may use to set a general framework for military missions. The country reports in the appendix provide ample illustrations about how parliaments have passed laws regulating the substantive and procedural requirements for military deployments. This legislative power may of course lead to a deployment law which obliges the government to seek prior parliamentary approval of each decision to participate in military missions.

Moreover, parliament may have important budgetary powers. As Heiner Hänggi pointed out, however, “in many democracies the ‘power of the purse’ has become purely nominal” because frequently a parliament “can only approve or reject spending proposed

³ Cf. <http://www.cidcm.umd.edu/inscr/polity/>

⁴ In the language of positivist research designs, we have to have a clear conceptualisation of the dependent variable “parliamentary control of military missions” as a precondition for discussing the explanatory power of possible independent variables.

by the government, but cannot modify it, nor initiate its own spending proposal” (Hänggi 2004: 13). Parliaments gain considerable power if they must approve or reject the budgets of individual military missions. At least in parliamentary systems of government, parliament may also defeat government in a vote of no-confidence if it disapproves of the government’s policy on military missions. However, this “nuclear option” in legislative-executive relations has hardly if ever been put into practice.

Heiner Hänggi and Hans Born have emphasised that the effectiveness of parliamentary control does not exclusively depend on parliament’s authority. Instead, ‘ability’ and ‘attitude’ further influence the effectiveness of parliamentary control. ‘Ability’ denotes the resources such as specialised committees, budget and staff which are necessary to make efficient use of the authority conferred upon Parliament. Finally, ‘attitude’ refers to the “willingness to hold the executive to account” (Born 2004: 213) which, among other things, depends on the extent to which legislative-executive relations are characterised by party discipline.

This discussion makes clear that the issue of parliamentary control of military missions is a complex one, with parliaments having a variety of instruments to control government policy and with their effective use hinging on the “triple A” of authority, ability and attitude. The challenge for a large comparative study focusing on developing an explanation for differences in levels of parliamentary control is of course to concentrate on the most important aspect(s) and to sort out less prominent ones.⁵ Drawing on the work of Hänggi, Born and others, this study focuses on parliament’s involvement in deciding on individual cases of participation in military missions. Born and Hänggi have concluded that “the strongest means of parliamentary oversight by far is [...] the constitutional or legal right to approve or reject such use of force” (Hänggi 2004: 14; cf. also Born 2004: 211). In contrast, budget and staff are certainly indispensable to make use of legal authority but they *reflect* rather than cause legal powers. The level of parliamentary control can be considered

- “high”, if the government must seek prior parliamentary approval before it may send troops abroad;
- “medium” if parliament’s power of prior approval is undermined by significant exceptions, if the government must only consult a parliamentary committee (instead of the full parliament) or if the government does not need prior approval but must consult parliament;
- “low” if there is no obligatory parliamentary involvement in decision-making on participation in military missions.

Among the countries under consideration, Denmark, Finland, Germany, Ireland, Slovakia, Spain, Sweden and Switzerland share a high level of parliamentary control of military missions (cf. table 1 for an overview).⁶ In each of these countries, parliament must give its prior approval to deployments of military forces. Respective provisions may either be part of the constitution (as in Denmark, Ireland or Slovakia) or laid down in

⁵ Such a selective focus seems inevitable for the simple reason that it is very difficult to gather the necessary data for the entire sample of countries (and without data for all countries, the study would be biased).

⁶ Spain joined this group only in 2005. Until the introduction of new deployment provisions, Hungary and Japan would have also been assigned to this group.

special laws (as in Finland, Germany, Switzerland, Spain or Sweden). Frequently, thresholds are defined to allow for minor deployments to take place without prior parliamentary approval. Thus, the Irish Defence Act stipulates that parliamentary approval is not needed for sending fewer than 12 armed soldiers. In a similar way, the Swiss military law provides for parliamentary approval only if a mission comprises more than 100 troops or lasts longer than three weeks. The German “Parliament Participation Act” provides for a simplified procedure for “missions of low intensity and importance”: a government request is circulated among the members of parliament and is considered to be approved unless, within a period of seven days, one fraction or a minimum of five per cent of parliamentarians call for a formal procedure. These provisions all share the purpose of preventing the occupation of parliament with large numbers of bagatelle cases. Whereas the Swiss and Irish laws set an objective criterion as a threshold, the German law is interesting because it leaves the authority to parliament to define whether a mission is of sufficient importance to merit the involvement of the full parliament.

At the other end of the spectrum are countries with a low level of parliamentary control including Australia, Belgium, Canada, France, Greece, New Zealand, Poland, Portugal, the United Kingdom, the USA, and, more recently, Hungary. In these countries, governments frequently seek prior parliamentary approval of deployments but it is at the government’s discretion whether it deems such an act appropriate. In four states of this group (the United Kingdom, Australia, Canada and New Zealand), the low level of parliamentary control of military missions has been part of a Westminster-type parliamentary system in which the authority to deploy armed forces has been considered part of a “royal prerogative” that is nowadays exercised by the government. The USA is a special case because the interpretation of the constitution has been contested and the coding is based on the predominant practice.

Table 1: Variance in OECD countries’ level of parliamentary control

	low level (11)	medium level (7)	high level (8)
countries	Australia; Belgium; Canada; France; Greece; Hungary; New Zealand; Poland; Portugal; United Kingdom; USA	Austria; Czech Republic; Italy; Japan; Luxembourg; Netherlands; Norway	Denmark; Finland; Germany; Ireland; Slovakia; Spain; Sweden; Switzerland

Austria, the Czech Republic, Italy, Japan, Luxembourg, the Netherlands and Norway constitute a third group with a medium level of parliamentary control of military missions. In these countries, the government is not entirely free to decide on the deployment of armed forces. At the same time, however, parliament has not been granted the most effective means of control, namely the power of prior approval. This group comprises various types of deployment provisions: First, there are countries in which parliaments must be consulted before armed forces can be sent abroad (Luxembourg and the Netherlands). Second, there are states with a general provision of prior parliamentary approval but with significant exemptions as in the Czech Republic. Third, there are countries in which prior parliamentary approval is required but delegated to a special committee (Austria and Norway). At first glance, such a provision comes very close to a

high level of parliamentary control because members of parliament (including those of opposition parties) must approve deployment decisions. However, the delegation of parliamentary powers to a special committee brings about a loss of publicity which is an important feature of parliamentary control.

3. THE STATE OF THE ART ON ANALYSING DIFFERENT LEVELS OF PARLIAMENTARY CONTROL OF DEPLOYMENT DECISIONS

Although there has been a growing body of literature on the parliamentary control of deployment decisions, little attention has been paid to the question of *why* levels of parliamentary control differ so vastly in Western democracies. In the literature on civil-military relations, the issue of parliamentary control has only recently assumed a more prominent role.⁷ Ever since Samuel Huntington's "The Soldier and the State" (Huntington 1957), the main focus has been on the "civil-military gap" which results from different attitudes within the military, on the one hand, and among civilians, on the other hand (cf. the contributions in Feaver/Kohn 2001 as well as Strachan 2003; Vennesson 2003). A large number of studies ask whether civilian control over the military has indeed been functioning and almost always focus on the relationship between the (civilian) executive and the military while neglecting the relationship between the legislature and the executive (cf. among others, Feaver 2003). Cottey/Edmunds/Forster recently criticised this research as insufficient. Instead they propose that "[d]emocratic civil-military relations should instead be conceptualised in terms of the democratic legitimacy, governance, and accountability of a state's civil-military relationship [...]. In particular, attention should be paid to the role of parliaments in providing oversight of the armed forces, defence policy, and the executive's control of the military and the wider civil society debate on armed forces and defence" (2002: 36; 39).

Differences in parliamentary control of deployment decisions are also relevant to the so-called democratic peace: the notion that democracies do not fight each other has been exceptionally influential in both politics and academia. In a now famous statement, Jack Levy has celebrated the absence of war among democracies as being "as close as anything we have to an empirical law in international relations" (Levy 1989: 88). At the same time, the democratic peace has surfaced in key foreign policy speeches of Western decision-making including American Presidents Bill Clinton and George W. Bush and German Foreign Minister Joschka Fischer.⁸ Democratic institutions have played a key role in developing an explanation for the democratic peace.⁹ In general, democratic institutions are regarded as making government policy responsive and accountable to the citizens thereby limiting the government's room for manoeuvre. In accordance with Immanuel Kant's "Perpetual Peace", citizens are pictured as eager to preserve their lives and property and thus to abhor war.

⁷ The contributions to "Armed Forces and Society" are indicative of the changing agenda of research on civil-military relations.

⁸ Cf. for Bill Clinton: Address by the President to the 48th Session of the United Nations General Assembly, The White House. Office of the Press Secretary, 27 September 1993; for George W. Bush: State of the Union Address, Washington DC, 20 January 2004; for Joschka Fischer: speech at the 54th session of the United Nations General Assembly in New York, 22 September 1999.

⁹ An alternative account has emphasised democratic norms and culture instead of democratic institutions (cf. Doyle 1983; Russett 1993; Maoz/Russett 1993; Owen 1994; Weart 1998). From this perspective, decision-makers "will try to follow the same norms of conflict resolution as have been developed within and characterise their domestic political processes" (Russett 1993: 35). Since democracies are characterised by *peaceful* conflict resolution, they will prefer negotiation over the use of force in international politics as well. This pacifist preference, however, only translates into peaceful relations with other democracies. In conflicts with non-democracies, democracies are forced to resort to realist strategies lest they risk being attacked (Risse-Kappen 1994). Critics claim that the normative/cultural model fails to account for the numerous threats made by one democracy against another (Layne 1994: 13) as well as for colonial wars against states "that were about subjugation rather than self-protection" (Bueno de Mesquita et al. 1999; Rosato 2003: 588).

In democratic peace research, regular free elections have been considered the most important mechanism to hold executives accountable. According to Morgan and Campbell, “leaders who have to stand for popular election should be expected to take public attitudes into account when making decisions” (1991: 190, cf. also Siverson 1995: 483). Democracies are considered to be less war-prone because “leaders of democratic states typically experience high political costs from fighting wars – always from losing them, and often despite winning them” (Russett/Oneal 2001: 54). In addition to free elections, Morgan and Campbell have identified the “nature of political competition” and “the degree to which the leader must share decision-making power” as further mechanisms to constrain political leaders: “If institutions or individuals other than the executive must also approve such a decision [to fight], less belligerent elements of society have a greater chance of moderating policy and can constrain the leader” (Morgan/Campbell 1991: 191). These latter mechanisms are of particular importance when deployments below the threshold of war are concerned because they are less likely to have an impact on citizens’ electoral decisions (especially if they are carried out early in the election cycle). In such cases, “parliaments are the central locus of accountability for any governmental decision-making concerning the use of force” (Hänggi 2004: 11; cf. also Morgan/Campbell 1991: 191). As elected representatives of the people, the articulation of popular interests and concerns has been a prominent task of Members of Parliament. Thus, differences in the level of parliamentary control are of utmost importance to the institutional explanation of the democratic peace.

Notwithstanding the importance of parliamentary control of deployment decisions for research on civil-military relations and the democratic peace, the bulk of literature on parliamentary control of deployment decisions has been descriptive and policy-oriented. Speculations about the factors responsible for this diversity have been rare and ad hoc.¹⁰ A large number of studies emerged from the context of reviewing and amending national deployment laws. For example, most analyses of the German parliament’s role in authorising the use of military force originated from the debate about a new deployment law which the Federal Constitutional Court had called for in 1994 and which was finally adopted in 2004.¹¹ The handbook “Parliamentary Oversight of the Security Sector” and numerous related publications¹² by the Geneva Centre for the Democratic Control of the Armed Forces were written to help the post-communist states in Central and Eastern Europe amend their legislation in accordance with democratic standards. The vast literature on the “War Powers Resolution”¹³ is a special case because its legal status remained contested between Congress and the Presidency. As a context, the literature on the war powers resolution became part of the ever-lively debate about the distribution of powers in the American policy.

Virtually all comparative studies have emerged from a policy-oriented context as well: in the late 1990s, the French Assemblée nationale commissioned a small comparative survey that focused on the EU member states (Maillet 1999). The European Parliament, in turn,

¹⁰ For example, Born/Urscheler (2003:64f.) suggest that parliaments in Belgium and Spain may be marginalised because of these countries’ colonial histories but conclude that “further research is needed into this issue”.

¹¹ Cf. Biermann (2004); Eitelhuber (2004); Meyer (2004); Müller (2003); Schröder (2005); Wiefelspütz (2003 and 2005) as well as Böckenförde (2004).

¹² These include Arbatov/Chernikov (2003); Born et al. (2002); Fluri/Nikitin (2002); Born (2003, 2004).

¹³ Cf. Auerswald/Cowhey (1997); Stern/Halperin (1994); Dahmer (1998); Damrosh (1995); Deering (1991); Dellinger (1995); Fisher (1995); Koh (1990).

ordered Jürgen Mittag's study comparing Denmark, Germany, France, Poland, Sweden, the United Kingdom and the USA (Mittag 2003). The initiator of Alexander Siedschlag's comparative analysis of Germany, France, the United Kingdom, Italy and Sweden was the Stiftung Wissenschaft und Politik, funded from the German Chancellor's Office (Siedschlag 2001). Georg Nolte's voluminous study of 10 countries was written for the German Ministry of Defence (Nolte 2003). Finally, the Assembly of the Western European Union published a report dealing with all but two EU member states. These studies were designed to familiarise members of an international organisation with each other's peculiarities and to stimulate reform. In these studies, theoretical considerations have virtually played no role at all.

A notable exception from the descriptive literature is the volume by Charlotte Ku and Harold Jacobsen (2003). Ku/Jacobsen focus on the challenge to democratic accountability posed by the growing number of military missions agreed in the UN Security Council. They are interested in "how democracies maintained accountability to their citizens when they acted under the auspices of international institutions" (Ku 2003: xix). In order to present the diversity of solutions found, their volume includes case studies on the USA, France, the United Kingdom, Germany, Russia, India, Canada, Japan and Norway. The editors, however, are not interested in explaining the diversity of deployment laws across democracies.

4. EXPLANATORY FACTORS

As a first step in developing an explanation for the diversity of Western democracies' deployment laws, this paper presents five hypotheses linking explanatory factors (or independent variables) to the level of parliamentary control over decisions on the use of military force. In the following sub-sections, each hypothesis will be presented and illustrated.

4.1. "Locking-in" hypothesis

The "locking-in" hypothesis is drawn from "rationalist institutionalism", i.e. a theoretical perspective assuming that institutions are created by rational actors to perform specific functions. Differences in institutional design are explained by differences in demand for an institution's performance. In general, the establishment and maintenance of institutions is regarded as costly. As a consequence, institutions will only be established and maintained if the benefits of the institution's performance exceed the costs of establishment and maintenance.

Proponents of rationalist institutionalism have listed a range of functions that institutions can be expected to perform. At the most general level, institutions may reduce transaction costs and thereby foster cooperation among members. More specifically, institutions may monitor members' compliance and provide a solution to problems of incomplete contracting. Most important to the analysis of parliamentary control over deployment decisions, however, is that institutions may be designed to "lock-in" certain policies: By giving an independent institution the power to control the execution of a certain policy, the institution helps to make policy changes costly.

Andrew Moravcsik (2000) has taken the example of the Council of Europe's European Convention of Human Rights (ECHR) to demonstrate how liberal democracies in particular may use international institutions to "lock-in" human rights policies; by delegating competencies to monitor compliance with human rights to an international institution, incumbent governments interested in a high standard of human rights increase the costs of violating ECHR standards for any future government that may have a less ambitious human rights policy: "By placing interpretation in the hands of independent authorities managed in part by foreign governments [...] governments seek to establish reliable judicial constraints on future non-democratic governments or on democratically-elected governments that may seek [...] to subvert democracy from within" (Moravcsik 2000: 228). It is important to note, however, that the demand for locking-in human rights standards differs considerably across governments. Moravcsik distinguishes three groups of states. "Semi-democracies and dictatorships" are characterised by frequent human rights violations and are interested in committing neither themselves nor future governments to comply with the ECHR. They can therefore not be expected to become a member of the ECHR. In contrast, in "well-established liberal democracies", compliance with human rights has become taken for granted. As a consequence, these states have little to gain from becoming a member of the ECHR. In fact, "[b]y accepting binding obligations, governments in established democracies incur an increased, if modest, risk of

de facto nullification of domestic laws without a corresponding increase in the expected stability of domestic democracy, since the latter is already high.” (Moravcsik 2000: 229). The demand for international human rights regimes will be greatest among “recently established and potentially unstable democracies”. In these states, non-democratic groups still pose a real threat to future compliance with human rights standards. Therefore, by empowering an international institution with the supervision of compliance, desired compliance can be “locked-in” by incumbent governments.

The case of human rights policy has many parallels to military policy. Jack Snyder and Edward Mansfield have studied the war-proneness of states during the transition from autocratic to democratic rule (Mansfield/Snyder 1995; 2002a and b; 2005). In a seminal article, Mansfield/Snyder argued that democratisation states in general are particularly war-prone (Mansfield/Snyder 1995). After having been criticised by various colleagues (Weede 1996; Wolf 1996; Enterline 1996; Thompson/Tucker 1997) they limited their claim to states undergoing an incomplete transition, i.e. states in which free speech and free media allow for the mobilisation of nationalist rhetoric whereas institutions mitigating such a mobilisation are still weak. Therefore, citizens in states undergoing democratic transitions have increased incentives to impose institutional constraints on future governments’ freedom of military action by giving parliament a powerful role in the decision-making process because uncertainty about future governments’ composition and policy is particularly high. In stable and mature democracies, in contrast, citizens show a high level of confidence that future governments may deploy troops only under conditions that also appear appropriate to the public. Therefore, a high level of parliamentary control seems to yield few benefits but considerable costs, most importantly by slowing down the decision-making process. Thus, a high level of parliamentary control should be found in newly-established democracies whereas a low level of parliamentary control can be expected in states with a long and stable democratic tradition.

Table 2: Levels of parliamentary control and established vs. new democracies

	established democracy (22)	recently democratised country (4)
low level of parliamentary control (11)	9: Australia; Belgium; Canada; France; Greece; New Zealand; Portugal; United Kingdom, USA	2: Hungary; Poland
medium level of parliamentary control (7)	6: Austria; Italy; Japan; Luxembourg; Netherlands; Norway	1: Czech Republic
high level of parliamentary control (8)	7: Denmark; Finland; Germany; Ireland; Spain; Sweden; Switzerland	1: Slovakia

Among the countries under consideration in this study, four can be considered to be “young democracies”, having emerged from the latest wave of democratisation after 1989: the Czech Republic, Slovakia, Poland and Hungary. At the time of writing, however, parliament’s prior approval for military deployments is only required in

Slovakia. It is important to point out, however, that the Czech Republic and Hungary did introduce a high level of parliamentary control in their constitutions in the early 1990s. They only changed the level of parliamentary control more than a decade after the transformation to democracy began. In this process, membership in NATO played a pivotal role (cf. section 4.5).

The case of Hungary from 1989 to the mid-1990s may illustrate the rationale of locking-in a specific military policy by empowering the Parliament (for the following cf. Simon 2003). The democratic parties were concerned about the future role of the military for at least two reasons. First, the Hungarian armed forces had participated in the Soviet-led military intervention in Czechoslovakia in 1968. Second, the communist rulers had tried to insulate the military from the process of democratisation in 1989/90. This process of democratisation was characterised by a high degree of negotiation between the ruling communists and their challengers. When the communist government of Miklos Nemeth realised that it would almost certainly lose free elections that were scheduled for March 1990 it tried to insulate the military from what seemed an inevitable process of democratisation. Thus, a few months before the elections took place, the government decided that the military command would no longer rest with the Ministry of Defence (which was expected to be led by the opposition) but by the President (who was expected to be a communist reformer). Taken together, in 1989/90 there was a high degree of uncertainty about the future of the democratisation process and the possible role of the military within that process. As a consequence, the National Assembly, by amending the constitution, introduced an extraordinarily high level of parliamentary control over military deployments by requiring a two-thirds majority in parliament.

4.2. “Lessons-learnt” hypothesis

Whereas the “locking-in” hypothesis emphasises uncertainty about *future* deployment decisions, the “lessons-learnt” hypothesis highlights experience with *past* deployment policy. In general, a decision-making system that has resulted in policy failure is always more likely to be changed than a system that produces the desired outcomes. Though policy failure does not necessarily lead to institutional reform, it does provide a window of opportunity for reform.

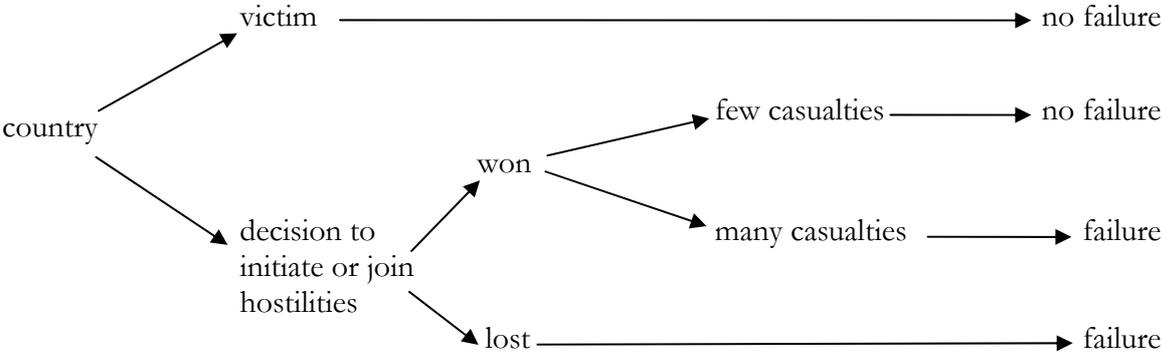
What then defines policy failure in the realm of military missions? At a general level, a mission can be considered a failure if the mission’s initial goal has not been achieved. Most obviously, this is true if a country’s armed forces have been defeated. Two qualifications are in order, however: first, even a military defeat may not necessarily be considered a *policy* failure if the government had not initiated hostilities but was attacked by other forces. Under such circumstances, a government may still be held accountable for its defence policy leading to a defeat. Since there was no *decision* to send military forces abroad, however, the procedures for deployment *decision-making* can hardly be made responsible for military defeat. After all, hostilities in these cases are initiated by other armed forces and therefore are *forced upon* the country under consideration.

The second qualification relates to military missions that are initiated and subsequently won by a country under consideration. Since the mission’s military goal has been

achieved, such missions are unlikely to be considered policy failures. However, even a military victory may be considered a failure if it involves high numbers of casualties. This insight is prevalent in democratic peace research that holds democracies to be less war-prone because “leaders of democratic states typically experience high political costs from fighting wars – always from losing them, and often despite winning them” (Russett/Oneal 2001: 54).

Taken together, the following coding rules apply to military failure: If a country was a victim of an attack, a military mission will not be considered a policy failure whether the country is defeated or not. If a country was not attacked but chose to initiate or join hostilities, a military mission will be considered a failure if the hostilities led to military defeat. Finally, if a country initiated and won hostilities, it will depend on the number of casualties whether such a military mission will be considered a failure or not.¹⁴

Table 3: Coding rules for military failure



In order to gather data on military failure, table 4 provides a list of wars in which the countries under consideration here participated, starting with World War II. The table draws on the Correlates of War project’s database on inter-state conflicts.¹⁵ In addition, it provides data on whether a country can be considered a victim, whether the country has won or lost the war and on the number of casualties resulting from hostilities.¹⁶ The table orders countries’ war participation according to the criteria for policy failure outlined above, i.e. it first lists cases in which states were a victim of attack (no policy failure), then cases in which hostilities were initiated but won (or led to a draw as in Korea) without an unacceptable number of casualties (no policy failure) and finally cases in which hostilities were initiated and lost (policy failure).

¹⁴ How many casualties will turn a military mission into a failure is, of course, difficult to determine and is currently debated by a number of scholars. As will become clear below, however, there is no case of initiated and won hostilities in this study to which such considerations would apply.

¹⁵ The exclusion of extra-state (i.e. imperial or colonial) wars is justified because they are addressed in the next section. Correlates of War’s (COW’s) collection of inter-state war data covers hostilities until 1997.

¹⁶ Whether a state was a victim or rather an aggressor and whether it has won or rather lost a war has been contested in some cases. The COW project offers data on the initiation of hostilities and their outcome. In doing so, COW follows a rather restrictive interpretation of “initiation” which, for example, does not consider the USA to be an initiator of the 1991 Gulf War. As a consequence, states who are not considered as “initiators” by COW are by no means “victims of aggression” in the sense of this study. As a consequence, I have made the decisions on whether a country can be considered a victim of aggression myself. In this context, the most difficult decision relates to the coding of colonial wars. As the special status of colonial wars will be addressed in the next section, this problem does not concern us here.

Table 4 demonstrates that there are only six countries that may be coded to have experienced policy failure, i.e. Germany, Hungary, Italy and Japan during World War II and Australia and the USA during the Vietnam War. The other countries under consideration here either

- have not participated in hostilities to any significant degree (as Austria,¹⁷ Denmark, Ireland, Luxembourg, Spain, Sweden and Switzerland);
- did not *decide* to enter hostilities but instead were the victim of an attack (as Belgium, Finland, France, Greece, the Netherlands, Norway, Poland, the UK and the USA, during WW II, Hungary in 1956 and the UK in the Falklands War); or
- decided to participate in an armed conflict and came out on the winning side (as Canada and New Zealand in World War II, the USA, France and the UK during the Gulf War or the France and the UK at Suez).

Table 4: **War involvements, victims, outcomes, battle deaths and battle deaths/population ratios**¹⁸

Country	War	victim?	outcome ¹⁹	battle death ²⁰	ratio battle death/population ²¹	Policy failure?
Finland	WW II (1939-1944) ²²	yes	lost	89,900	0.023424	no
Poland	WW II (1939)	yes	lost ²³	320,000	0.010606	no
UK	WW II (1939-1945)	yes	won	418,765	0.008755	no
France	WW II (1939-1945) ²⁴	yes	won	213,324	0.005129	no
USA	WW II	yes	won	405,400	0.003028	no
Greece	WW II (1940-1941)	yes	won	18,300	0.002545	no
Belgium	WW II (1940)	yes	won	9,600	0.001149	no
Norway	WW II	yes	won	3,000	0.000995	no
Netherlands	WW II (1940)	yes	won	7,900	0.000883	no

¹⁷ COW does not list Austria as a participant in WW II either but doubts remain as to the appropriateness of this coding.. Formally, to be sure, Austria was no longer an independent state when hostilities started in 1939. Politically, however, the inhabitants of Austria certainly share the experience with aggressive militarism characteristic of Germany.) For the purpose of this study, however, I will follow COW and keep Austria excluded from the list.

¹⁸ The table does not list a number of countries under consideration here. For most of these countries this is due to the fact that they simply have not fought wars: Ireland, Sweden and Switzerland have abstained from participation in wars due to their tradition of neutrality. Denmark and Luxembourg were occupied by German forces during WW II but COW does not record hostilities. The Czech and Slovak republics have not been included because they have not fought any wars as independent republics and, during WW II, Czechoslovakia was dissolved and occupied without hostilities.

¹⁹ Data on outcomes are all from COW's interstate and extra-state war files.

²⁰ The figures on World War II are taken from the COW project's interstate war participant file. Data on a country's pre-war population are all taken from COW. Battle death figures for conflicts after 1945 are taken from Lacina/Gleditsch (2005) who critically discuss the plausibility of previous COW figures.

²¹ All figures are from COW.

²² COW codes Finnish WW II participation as two distinct wars, i.e. the "Winter War" from 30.11.1939 to 12.3.1940 and the "Continuation War" from 25.6.1941 to 19.9.1944.

²³ COW codes Poland to have been "on the winning side" during the hostilities of 1939 but this is an obvious mistake and corrected accordingly.

²⁴ COW codes French WW II participation as three distinct wars, i.e. 1939/40 and 1940/41 and 1944/45. Since the hostilities of 1944/45 have been won, French overall participation in WW II is coded as "won".

Country	War	victim?	outcome ¹⁹	battle death ²⁰	ratio battle death/population ²¹	Policy failure?
Hungary	Warsaw Pact (1956)	yes	lost	2,539	0.000256	no
UK	Falklands	yes	won	255	0.000004	no
New Zealand	WW II (1939-1945)	no	won	12,200	0.007498	no
Australia	WW II (1939-1945)	no	won	33,826	0.004854	no
Canada	WW II	no	won	41,992	0.003631	no
USA	Gulf war 1991	no	won	146	0.000001	no
UK	Suez 1956	no	won	25	0.000001	no
UK	Gulf war 1991	no	won	24	0.000000	no
France	Suez 1956	no	won	10	0.000000	no
France	Gulf war 1991	no	won	2	0.000000	no
USA	Korea (1950-1953)	no	draw	27,304	0.000180	no
Australia	Korea (1950-1953)	no	draw	272	0.000033	no
Greece	Korea (1951-1953)	no	draw	194	0.000025	no
Canada	Korea (1950-1953)	no	draw	309	0.000023	no
Belgium	Korea (1951-1953)	no	draw	104	0.0000120	no
Netherlands	Korea (1951-1953)	no	draw	120	0.000012	no
UK	Korea (1950-1953)	no	draw	537	0.000011	no
France	Korea (1951-1953)	no	draw	271	0.000006	no
Germany	WW II (1939-1945)	no	lost	3,500,000	0.044094	yes
Japan	WW II (1941-1945)	no	lost	1,740,000	0.024093	yes
Hungary	WW II (1941-1945)	no	lost	136,000	0.014922	yes
Italy	WW II (1940-1945) ²⁵	no	lost	174,500	0.003961	yes
USA	Vietnam (1965-1973)	no	lost	46,122	0.000237	yes
Australia	Vietnam (1965-1972)	no	lost	469	0.000041	yes

²⁵ From 10.6.1940 to 2.9.1943, Italy fought along Germany, before it changed sides and fought along the Allied powers from 18.10.1943 to 7.5.1945. This makes the codification of Italy's experience in WW II difficult. Because the 1940-43 war lasted longer and caused more than three times as many battle deaths on the Italian side, the codification rests on Italy's experience during the 1940-43 war and discounts its experience during the 1943-45 war.

Table 5 provides an overview of the relationship between policy failure and levels of parliamentary control.

Table 5: Policy failure and levels of parliamentary control

	policy failure (6)	no policy failure (20)
low level of parliamentary control (11)	3: Australia; Hungary; USA	8: Belgium; Canada; France; Greece; New Zealand; Poland; Portugal; United Kingdom
medium level of parliamentary control (7)	2: Italy; Japan	5: Austria; Czech Republic; Luxembourg; Netherlands, Norway;
high level of parliamentary control (8)	1: Germany	7: Denmark; Finland; Ireland; Slovakia; Spain; Sweden; Switzerland

Table 5 demonstrates that there is little evidence for the “lessons-learnt” hypothesis according to which states tend to introduce a high level of parliamentary control after having experienced a failed military mission. Until 2000, however, evidence for the “lessons-learnt” hypothesis was much higher because the level of parliamentary control in Hungary and Japan was still high.²⁶ Thus, other explanatory factors (such as the integration of military structures, cf. section 4.5 below) may supersede the impact of policy failure.

Whereas in Germany, Italy and Japan, a strengthening of parliamentary control of military missions was introduced under the auspices of the occupying powers, in the USA, such a strengthening of parliamentary powers was initiated by Parliament itself as a consequence of the Vietnam War. The war against the Vietcong was not only initiated by the USA; it was also lost and the United States had some 58,000 battle-related deaths. Public support in the USA declined as the numbers of casualties rose. In the face of growing public scepticism, the US Congress passed the War Powers Resolution that obliges the President to consult Congress before deploying troops and to terminate the use of force after 60 days unless Congress has authorised it. Although this episode demonstrates the importance of military failure and “lessons learnt”, the case of the US does not support the “lessons-learnt” hypothesis because the President never accepted the War Powers resolution and the level of parliamentary control is coded to be “low” in the US (cf. appendix below).

4.3. “Colonialism” hypothesis

Like the “lessons learnt“ hypothesis, the “colonialism“ hypothesis highlights a country’s historical experience. However, while the “lessons-learnt” hypothesis emphasises policy failure, the “colonialism” hypothesis refers to a long tradition of military conquest.

²⁶ The case of Japan therefore demonstrates that the causal effects of some explanatory factors considered here get weaker over time. In other words: the lesson learnt from WW II has been succeeded by another, more recent “lesson” from 9/11.

During their colonial period, states have made frequent use of the armed forces, either to fight wars of conquest or to suppress insurgencies. As a consequence, citizens in (post-) colonial states are usually used to their government deciding on military missions. As Marc Houben put it with a view to the United Kingdom, “[d]eployment overseas is nothing new for British forces – the evolution from colonial policing to participation in international crisis management operations is not a long stretch” (Houben 2005: 121). Moreover, as the colonial period is frequently associated with a country’s “belle époque” and the military may claim credit for this, the military in former colonial powers often enjoys high prestige which hampers parliamentary oversight.

Which countries under consideration in this paper may be considered to have a colonial tradition? For the purposes of this paper, mere possession of dependent territories seems less important, however, than the use of military force in conquering and defending them. Therefore, we can use the Correlates of War database on extra-state wars to identify those countries with a record in colonial warfare. The Correlates of War project has defined extra-state war as a “war between a territorial state and a non-sovereign entity outside the borders of that state” (Sarkees et al. 2003: 59). Extra-state wars thus differ both from inter-state wars (between two recognised sovereign states) and intra-state wars. Extra-state wars as defined by the Correlates of War project can be considered the best approximation to colonial wars because the bulk of non-sovereign entities have been insurgents under colonial rule. Table 6 presents a list of all “extra-state wars” in which a country under consideration here has participated.

According to table 6, Belgium, France, Germany, Italy, Japan, the Netherlands, Portugal, Spain, the United Kingdom and the USA have all fought colonial wars. The United Kingdom (47) and France (28) have fought a particular large number of colonial wars, followed by Spain (8). By the same token, Belgium, Germany, Italy, Japan, the Netherlands, Portugal and the USA have fought no more than four colonial wars.

Table 6: Extra-state war involvements

War Participant	War Name	Duration (Years)
Belgium	Belgian-Congolese	1892
France	Franco-Algerian War of 1839	1839-1847
	Uruguayan Dispute	1845-1850
	Franco-Moroccan War	1844
	Second Opium War (China)	1856-1860
	Kabylia Uprising (Algeria)	1856-1857
	Franco-Senegalese War of 1857	1857
	Franco-Indochinese War of 1858	1858-1862
	Franco-Algerian War of 1871	1871-1872
	Franco-Tonkin War (Vietnam)	1873-1885
	Franco-Tunisian War of 1881	1881-1882
	Franco-Indochinese War of 1882	1882-1884

War Participant	War Name	Duration (Years)
	Franco-Madagascan War of 1883	1883-1885
	Mandigo War (West Africa)	1885-1886
	Franco-Dahomeyan War	1889-1892
	Franco-Senegalese War of 1890	1890-1891
	Franco-Madagascan War of 1894	1894-1895
	Mahdi Uprising (Egypt)	1896-1899
	First Moroccan War	1911-1912
	Second Moroccan War	1916-1917
	Franco-Syrian War	1920
	Riff Rebellion (Morocco)	1925-1926
	Franco-Druze War (Lebanon)	1925-1927
	Franco-Indochinese War of 1945	1945-1954
	Franco-Madagascan War of 1947	1947-1948
	Franco-Tunisian War of 1952	1952-1954
	Moroccan Independence War	1953-1956
	Franco-Algerian War of 1954	1954-1962
Cameroon War	1955-1960	
Germany	South West African Revolt	1904-1905
	Maji-Maji Revolt (East Africa)	1905-1906
Italy	Italo-Ethiopian War of 1887	1887
	Italo-Ethiopian War of 1895	1895-1896
	Italo-Libyan War	1920-1932
Japan	Japano-Taiwanese War	1895
Netherlands	Dutch-Javanese War	1825-1830
	Dutch-Acinese War	1873-1878
	Dutch-Balian War	1894
	Indonesian War	1945-1946
Portugal	Angolan-Portuguese War	1961-1975
	Guinean-Portuguese War	1962-1974
	Mozambique-Portuguese War	1964-1975
Spain	Spanish-Santo Dominican War	1863-1865
	Spanish-Cuban War of 1868	1868-1878
	Spanish-Cuban War of 1895	1895-1898
	Spanish-Philippino War of 1896	1896-1898
	First Moroccan War	1911-1912
	Second Moroccan War	1916-1917
	Riff Rebellion (Morocco)	1921-1926
	Moroccan Independence War	1953-1956

War Participant	War Name	Duration (Years)
United Kingdom	British-Mahrattan War (India)	1817-1818
	British-Kandyan War (Sri Lanka)	1817-1818
	British-Burmese War of 1823	1823-1826
	British-Ashanti War of 1824 (West Africa)	1824-1826
	British-Bharatpuran War (India)	1825-1826
	British-Zulu War of 1838 (South Africa)	1838-1840
	British-Afghan War of 1838	1838-1842
	First Opium War (China)	1839-1842
	British-Baluchi War (India)	1843
	Uruguayan Dispute	1845-1847
	British-Sikh War of 1845 (India)	1845-1846
	British-Kaffir War of 1846 (South Africa)	1846-1847
	British-Sikh War of 1848 (India)	1848-1849
	British-Kaffir War of 1850 (South Africa)	1850-1853
	British-Burmese War of 1852	1852-1853
	British-Santal War (India)	1855-1856
	Second Opium War (China)	1856-1860
	Indian Mutiny	1857-1859
	British-Maori War (New Zealand)	1860-1870
	British-Buthanese War	1865
	British-Ethiopian War	1867-1868
	British-Ashanti War of 1873 (West Africa)	1873-1874
	British-Kaffir War of 1877 (South Africa)	1877-1878
	British-Afghan War of 1878	1878-1879
	British-Zulu War of 1879 (South Africa)	1879
	Gun War (Lesotho)	1880-1881
	Boer War of 1880 (South Africa)	1880-1881
	British-Mahdi War (Egypt)	1882-1885
	British-Burmese War of 1885	1885-1886
	British-Ashanti War of 1893 (West Africa)	1893-1894
	Mahdi Uprising (Egypt)	1896-1899
	British-Nigerian War	1897
	Indian Muslim War	1897-1898
Hut Tax (West Africa)	1898	
Somali Rebellion	1899-1905	
Boer War of 1899 (South Africa)	1899-1902	
British Conquest of Kano & Sokoto (West Africa)	1903	
British-Zulu War of 1906 (South Africa)	1906	

War Participant	War Name	Duration (Years)
	British-Afghan War of 1919	1919
	Iraqi-British War	1920-1921
	Moplah Rebellion (India)	1921-1922
	Saya San's Rebellion (Burma)	1930-1932
	British-Palestinian War	1936-1939
	Indonesian War	1945-1946
	Malayan Rebellion	1948-1957
	British-Mau Mau War (East Africa)	1952-1956
	Cameroon War	1955-1960
USA	American-Philippino War	1899-1902
	Caco Revolt (Haiti)	1918-1920

Table 7 classifies the countries under consideration according to their level of parliamentary control (rows) and their past involvement in colonial wars (columns). In order to take the varying degree of colonial involvement into account a distinction has been made between high and low number of colonial wars with 10 colonial wars as a threshold.

Table 7: Levels of parliamentary control and number of colonial wars

	more than 10 colonial wars (2)	between 1 and 10 colonial wars (8)	no colonial wars (16)
low level of parliamentary control (11)	2: France; United Kingdom	3: Belgium; Portugal; USA	6: Australia; Canada; Greece; Hungary; New Zealand; Poland
medium level of parliamentary control (7)		3: Italy; Japan; Netherlands	4: Austria; Czech Republic; Luxembourg; Norway;
high level of parliamentary control (8)		2: Germany; Spain	6: Denmark; Ireland; Finland; Slovakia; Sweden; Switzerland;

The table clearly demonstrates that there is a causal link between a country's colonial past and its level of parliamentary control of military missions. The only two states that fought many colonial wars (i.e. France and the United Kingdom) both have low levels of parliamentary control of military missions. In contrast, among the eight states with high levels of parliamentary control of military missions, six never fought colonial wars. Before Spain joined this group in 2005, the ratio was even 6 out of 7! In the case of Germany, the policy failure of World War II seems to have had much more influence on the level of parliamentary control than the colonial past of this country (cf. section 4.2 above).

4.4. “Type of democracy” hypothesis

The “locking-in”, the “lessons-learnt” and the “colonialism” hypotheses all assume that the level of parliamentary control of deployment decisions depends on features in the realm of security and defence politics. In contrast, the “type-of-democracy” -hypothesis holds that parliament’s powers in military politics depend on the overall position of parliament in a state’s political system.

Parliament’s overall position lies at the heart of the distinction between parliamentary and presidential systems. According to Winfried Steffani, parliamentary systems are characterised by the parliament’s power to unseat the government whereas parliament lacks such powers in presidential systems. At first glance, parliament therefore has a dominant role in parliamentary systems. In practice, however, parliament’s power to unseat the government has led to a close entanglement between the government and a supporting majority in parliament buttressed by tight party discipline. In parliamentary systems, the task of controlling government is then exercised less by parliament as such but by the opposition in parliament. In contrast, the control of government remains a key task of parliament in presidential systems. As a consequence, parliaments in presidential systems are de facto in a stronger position than parliaments in parliamentary systems. Comparative empirical studies have confirmed the notion that parliaments’ powers of control are generally greater in presidential than in parliamentary systems (Strøm 2000; Harfst/Schnapp 2003).

Table 8: Levels of parliamentary control in parliamentary and presidential systems

	parliamentary system (24)	presidential system (2)
low level of parliamentary control (11)	10: Australia; Belgium; Canada; France; Greece; Hungary; New Zealand; Poland; Portugal; United Kingdom	1: USA
medium level of parliamentary control (7)	7: Austria; Czech Republic; Italy; Japan; Luxembourg; Netherlands; Norway;	
high level of parliamentary control (8)	7: Denmark; Germany; Ireland; Finland; Slovakia; Spain; Sweden	1: Switzerland

However, the “type-of-democracy” hypothesis is unlikely to carry much of the explanatory burden simply because almost all states under consideration are parliamentary systems which differ considerably in terms of parliamentary control of deployment decisions. Among the 26 states examined, only the USA and Switzerland have been coded as presidential systems by Steffani,²⁷ and these two states differ in terms of parliamentary control of deployment decisions as well; in Switzerland, parliamentary approval is

²⁷ Whereas the coding of the USA as presidential has not been contested, the coding of Switzerland has been questioned. For example, Arent Lijphart considers Switzerland to be a special case that is neither a parliamentary nor a presidential system. Furthermore, the classification is complicated for countries whose executive comprises both a Prime Minister who can be unseated by parliament and a President who is directly elected and cannot be unseated by parliament. To acknowledge the strong role of the French president, some have even suggested labelling France a “semi-presidential” system (cf. for an overview Schmidt 2000: 313). For the sake of consistency, however, I will follow Steffani, according to whom the features of a parliamentary system dominate in France.

required for any military mission that involves more than 100 troops or lasts longer than three weeks. In contrast, the American President frequently sends sent troops into combat without Congressional approval.²⁸

4.5. “Internationalisation” hypothesis

The “internationalisation” hypothesis is inspired by research on the democratic or liberal peace (cf., among many others, especially Russett/Oneal 2001). A growing body of literature has pointed out that democracies not only maintain peaceful relations among themselves. In addition, relations among democracies have been characterised by a high level of interdependence (Bliss/Russett 1998) and a dense network of transnational relations as well as by particularly high numbers of joint memberships in international organisations (Shanks/Jacobsen/Kaplan 1996; Mansfield/Milner/Rosendorf 2002).

While each of these factors (democracy, interdependence and international organisation) makes a distinct contribution to peaceful relations among states, inherent tensions between these factors remain (cf. Müller 2002; Barkawi/Laffey 2001; Teusch/Kahl 2001). For the study of parliamentary control of deployment decisions, the tension between democracy, on the one hand, and international organisations, on the other hand, is the most important one. On the one hand, democratic governments’ security policies are regarded to be constrained by institutional checks and balances and by the requirement to build public support for any deployment of armed forces and, by implication, international commitments that imply the deployment of forces. On the other hand, democracies are particularly prone to cooperate closely in security and defence politics and to establish security communities (Kahl 1999; Risse-Kappen 1996; Wagner 2003). Because inter-democratic relations are characterised by a high level of mutual trust, relative-gains considerations become less prominent and close cooperation becomes easier to establish (Gelpi/Grieco 2000). In addition, democratic governments face strong incentives to curb defence spending and thus to save military expenditure by establishing integrated military structures and by engaging in role specialisation. As a result, democracies are reported to maintain particularly effective security institutions (Hasenclever 2002).

The internationalisation hypothesis results from the inherent tension between a high level of institutionalised security cooperation among democracies, on the one hand, and a high level of institutionalised control of government security policy, on the other hand. The internationalisation hypothesis thus builds on what Klaus Dieter Wolf has called the “dark side of intergovernmental cooperation” (Wolf 1999: 334), i.e. that “international cooperation tends to redistribute domestic political resources toward executives” (Moravcsik 1994: 7). According to Moravcsik, a loss of control over the executive results from four causal mechanisms: first, international cooperation enhances the executive’s control over the domestic agenda because the international agenda has been ‘cartelised’ between national leaders. Second, once *international* agreement has been reached, it “may be costly, sometimes prohibitively so, for national parliaments, publics or officials to

²⁸ The coding of the American case is probably the most difficult because congressional powers are extremely contested (cf. the discussion in the appendix).

reject, amend or block ratification of and compliance with decisions reached by national executives in international fora” (1994: 11). Third, international cooperation gives executives privileged access to information about the political constraints of other governments and about the technical consequences of alternative policies. Finally, executives can impose an initial ideological ‘frame’ on an issue which is difficult for domestic groups to challenge. All four causal mechanisms may easily be applied to the realm of military missions.

Tensions between institutionalised security cooperation and parliamentary control have been analysed with regard to various types of security institutions, namely collective security systems, alliances and security management organisations (for this typology cf. Wallander/Keohane 1999):²⁹ With a view to collective security systems, Charlotte Ku and Harold Jacobsen have demonstrated that there is “an inherent tension between the expectations of collective security and the demand for democratic accountability with respect to decisions to deploy and use military force” because a working collective security system must assume “that states that have committed themselves to use military forces will do so automatically in specific situations without further debate” (Ku/Jacobsen 2003: 14 and 13).

In a similar way, Erik Gartzke and Kristian Gleditsch have argued with a view to alliances that “claims of democratic reliability also appear in logical tension with explanations for the democratic peace that emphasise the ability of citizens to veto the mobilisation decisions of political elites” (Gartzke/Gleditsch 2004: 775).

To the countries under consideration here, however, security risks have become much more important than threats. Therefore, out of area coalitions and security management organisations including the European Union and NATO have become the most prominent institutions where tensions between international cooperation and parliamentary control emerge.³⁰ Since the end of the Cold War, both organisations have begun to promote role specialisation and the integration of military structures for two main reasons. First of all, shrinking defence budgets in all member states have made their efficient spending more pressing. Member states have therefore been more prepared to participate in joint armaments projects and to engage in role specialisation in order to obtain more value for money. Second, role specialisation and the integration of military forces have been promoted for political reasons. With the common threat to Western European security disappearing, experts and decision-makers across Europe have been concerned about a ‘re-nationalisation’ of security and defence policies. The integration of military structures has been a powerful instrument to give credibility to the commitment to prevent a ‘re-nationalisation’.

²⁹ The distinction is based on whether a security organisation has inclusive or exclusive membership and whether it addresses threats or risks. Membership is inclusive if potential aggressors are a member of the institution (e.g. in the United Nations and the League of Nations) whereas it is exclusive if membership is limited to states sharing a common threat (as in alliances). Threats refer to a “positive probability that another state will either launch an attack or seek to threaten military force for political reasons. [...] When no such threat exists [...] states may nevertheless face a security *risk*” (Wallander/Keohane 1999: 25).

³⁰ NATO, of course, was founded as a military alliance to deter a possible attack by the Soviet Union and the Warsaw Pact. With the accession of West Germany, NATO also assumed a collective security-function, namely of providing security *from* Germany. Since the dissolution of the Swjet Union, however, NATO is best characterised as a security management organisation (cf. Wallander 2000; Theiler 1997).

Already during the Cold War, NATO was characterised by a high level of military integration with an integrated command structure and common planning facilities as its core (cf. Wallander 2000; Weber 1993). After the end of the Cold War, the integration of military structures was carried even further. In a deliberate attempt to maintain close security cooperation among themselves and to prevent a 're-nationalisation' of defence policies, NATO members endorsed a New Strategic Concept in 1991 that, among other things, called for the establishment of multinational units. In the following years, NATO members followed this proposal and established a considerable number of multinational forces. The political rationale for integrated military structures was most obvious in Franco-German cooperation. As early as 1987, the two states agreed to set up a Franco-German brigade. Although it would consist of no more than 5,000 troops, it was regarded as a model for military integration at unit-level and thus for a future European army (Nachtsheim 2002: 68). France and Germany were also at the forefront in creating the EUROCORPS in 1991. Over the course of the 1990s, a number of multinational units followed, including the Allied Rapid Reaction Force in 1991, the EUROMARFOR (comprising Spain, France, Italy and Portugal as an associate) in 1995 and the German-Dutch Corps in 1993.

A further important initiative to integrate military forces was the American proposal to create a "NATO Response Force" (NRF) in September 2002. The NRF is envisioned as a 'spearhead force', comprising some 20,000 men that can be deployed within just seven days. Its full operational capability is scheduled for 2006. The NRF is designed for the most demanding out-of-area missions, including the fight against terrorism. According to the architects of the proposal, the NRF would mainly consist of European forces that 'would consume only a minor fraction of Europe's military manpower and defence budgets, but [...] could make a huge contribution toward enhancing NATO's preparedness for new missions' (Binnendijk/Kugler 2002: 118). Soon after US Defence Secretary Donald Rumsfeld had launched the proposal at an informal meeting of defence ministers in Warsaw, it was officially endorsed at the Ministerial Council in Prague in November 2002.³¹

Since its decision to establish a European Rapid Reaction Force (ERRF), the European Union has become a further site for the integration of military forces. The decision for a 60,000-strong ERRF was made after the Kosovo campaign in 1999. At the Helsinki European Council in December 1999, EU member states pledged to become "able, by 2003, to deploy within 60 days and sustain for at least one year military forces of up to 50,000 – 60,000 persons capable of the full range of Petersberg tasks". After an agreement about the use of NATO assets had been finalised in 2002, the EU led a number of military missions, including "Concordia" in Macedonia in 2003 (involving some 350 troops), "Artemis" in the Democratic Republic of Congo in 2003 (with 2,000, mostly French, troops) and "Althea" in Bosnia (taking over from IFOR/SFOR in 2004 with about 7,000 troops).

At the same time the Council declared the operational capability of the EU across the full range of Petersberg tasks in May 2003, it also emphasised remaining shortfalls and

³¹ Prague Summit Declaration, issued by the heads of state and government participating in the meeting of the North Atlantic Council in Prague on 21 November 2002.

therefore elaborated a new 'Headline Goal 2010' with a focus on rapidly deployable troops. These 'battle-groups' would comprise some 1,500 troops and be prepared for the most demanding tasks. In a further Capabilities Commitment Conference in November 2004, member states pledged a total of 13 battle groups, available in 2007.

For the member states of both NATO and the EU, the establishment of integrated forces poses a challenge to the democratic control of deployments because the decision on the use of military force can no longer be made autonomously.³² As the discussion of alliance commitments and collective security systems above made clear, the tension between international commitments and democratic control is certainly not new. However, the integration of military structures adds a new dimension to this problem because the member states are not only bound by a political commitment. In addition they tend to be bound by a high degree of interdependence. Under such circumstances, a country not only decides about its own participation in a military mission but *de facto* about the feasibility of the entire mission.

Germany is particularly suited to illustrate the conflicting demands of military integration and parliamentary control. As a consequence of two world wars and the atrocities of the Wehrmacht, Germany has been a champion of both multilateralism and antimilitarism (among many others, see Berger 1998 and Anderson/Goodman 1993). Following the fierce debate over re-armament in the 1950s, a reluctance to use military force and a commitment to multilateralism became prime pillars of post-war German security policy. However, since the end of the Cold War and the growth in the number of peace-support operations out of area, tensions between these two principles have mounted.

Right after the Cold War, participation of the Bundeswehr in out-of-area missions was widely opposed in Germany. Indeed, the German government refrained from sending the Bundeswehr to the Persian Gulf in 1990/91. At the time of the Gulf crisis of 1990/91, German politicians were eager to demonstrate the country's peacefulness and were "surprised that the USA and Israel, among others, condemned Germany for not contributing militarily against Iraq" (Philippi 2001: 51). German decision-makers had to realise that its NATO partners now expected Germany as an ally to make a substantial contribution to non-article-5 operations (Baumann 2001: 166). Moreover, they realised that "similar behaviour in a future conflict would probably result in a crisis with its major allies" (Philippi 2001: 51). From then on, German governments aimed at overcoming the antimilitarist culture as an obstacle to the deployment of the Bundeswehr out of area. For this purpose, 'reliability as an ally' and 'alliance solidarity' became prominent arguments in the German debate over out-of-area missions (cf. Schwab-Trapp 2002). These arguments were buttressed by references to integrated force structures of which the Bundeswehr had been part. References to Germany's participation in NATO's Airborne Warning and Control System (AWACS) illustrate this point: AWACS was designed to recognise enemy aircraft over a given territory, most importantly in the event of an attack (defensive function). In addition, it could help to identify and select targets for air strikes (offensive function). In 1993, NATO offered its AWACS fleet to enforce the no-fly zone over Bosnia that the United Nations Security Council had agreed on. The German

³² Concerns have been voiced, among others, by Hummel 2003 and Bono 2004. Matthias Koenig-Archibugi (2004) has even argued that the disentanglement from Parliamentary control has been an important driving force for EU governments to advocate a Europeanisation of foreign, security and defence policy.

government's decision not to withdraw Bundeswehr personnel from AWACS met considerable criticism from the opposition and even from within the governing coalition. Thus, in early 1993, the Federal Constitutional Court (FCC) had to give a preliminary ruling on whether the participation of the Bundeswehr violated the German constitution as the opposition argued.³³

By a narrow margin of 5:3 votes, the FCC endorsed the government's decision to have the Bundeswehr participate in AWACS's mission over Bosnia. Concerns about alliance solidarity and reliability played a decisive role in the judgment. The Court noted that the Bundeswehr made up around 30 per cent of AWACS's personnel. As a consequence, a withdrawal of German soldiers at the very moment of this mission would endanger the enforcement of the no-fly zone over Bosnia. Furthermore, "allies and European neighbours would inevitably lose trust in German policy; the resulting damage would be irreparable".³⁴ Thus, the fact that the Bundeswehr participated in an integrated military structure played a decisive role in legitimising Germany's first combat (in contrast to humanitarian or peace-keeping) mission out of area. Since then, the scope of Germany's contribution to out-of-area missions has grown continually (cf. for an overview Baumann/Hellmann 2001).

In the main judgment of July 1994, the FCC affirmed the principle that any deployment of the Bundeswehr must have obtained parliamentary approval in advance. According to the FCC, the use of the armed forces is not within the executive's sole discretion but, as a "parliamentary army" part of the democratic constitutional order. However, the principle of advance parliamentary approval is circumscribed in two cases:

"The participation of the Bundestag in specific decisions to deploy troops that constitutional law requires must not compromise Germany's ability to defend itself (*Wehrfähigkeit*) and to make alliance commitments (*Bündnisfähigkeit*)." (author's translation and emphasis)

Since the FCC's ruling, the Bundestag has dealt with more than 30 deployments of the Bundeswehr (including the prolongation and extension of missions) (Meyer 2004: 19-20). However, this practice has again come under pressure since NATO's Prague summit decided to set up a multinational "Response Force" that could be deployed for the most demanding peace-support missions within a few days. The deployment of the NATO Response Force (NRF) was discussed at an informal NATO summit in Colorado Springs in October 2003. It soon became clear that a rapid deployment could be endangered by the required advance approval of the German Parliament. As with AWACS, German troops would play an essential role for the NRF. In contrast to AWACS, however, even a belated 'green light' would possibly cause problems. As a consequence, German Defence Minister Peter Struck immediately launched a debate about a reform of Germany's parliamentary proviso. Struck's suggestion was supported by his American colleague, Donald Rumsfeld, who urged NATO members "to bring NATO's decision-making

³³ After a previous preliminary ruling on German participation in monitoring a maritime embargo against Yugoslavia and a further preliminary ruling on the Bundeswehr's participation in UNOSOM II, the main ruling was made in July 1994 (BverfG E [decisions of the Federal Constitutional Court] vol. 90, 286, II, 286-394). However, we will focus on the preliminary "AWACS" ruling because it was part of the very decision-making process on Germany's first combat mission.

³⁴ BverfG E vol. 88, 173, II, p.183, author's translation.

structures up to date so that NATO military commanders can take decisive action against fast-moving threats in the 21st century.”³⁵

The case of Germany nicely illustrates the causal mechanisms described by Klaus Dieter Wolf or Andrew Moravcsik. As decision-making is shifted to international bodies, it becomes increasingly difficult for national parliaments to actually use their decision-making competencies. As the case of Germany also illustrates, there are tensions but no general incompatibility between a high standard of parliamentary control and the integration of military structures.

Whereas the case of Germany illustrates that there is indeed a tension between the integration of a country in integrated multinational military structures and the maintenance of a high level of parliamentary control, the question remains whether there is a general pattern between the participation in integrated military structures, on the one hand, and a lower level of parliamentary control of military missions, on the other hand. In order to answer this question, table 9 identifies for each country under consideration here whether it participates in multinational military forces. The two relevant forces in this context are the NATO Response Force and the EU Battle Groups.

The NATO Response Force (NRF) was agreed at NATO’s Prague summit in November 2002. The NRF consists “of a technologically advanced, flexible, deployable, interoperable and sustainable force including land, sea, and air elements ready to move quickly to wherever needed, as decided by the Council.”³⁶ The NRF “will also be a catalyst for focusing and promoting improvements in the Alliance’s military capabilities”. An initial operational capability was reached in September 2004; full operational capability is envisioned for 2006. All member states of NATO have agreed to contribute to the NRF.

The idea of European Union “battle groups” was launched at the British-French summit in Le Touquet on 4 February 2003 and has been incorporated into the EU’s “Headline Goal 2010”. Battle-groups would comprise some 1,500 troops and be prepared for the most demanding tasks. In a Capabilities Commitment Conference in November 2004, member states pledged a total of 13 battle groups, available in 2007.³⁷ Whereas most member states have made commitments for participation in battle groups, Ireland, Denmark and Malta have decided to refrain from participation.³⁸

³⁵ United States Department of Defense, News Transcript, Press Conference with Secretary Donald H. Rumsfeld and NATO Secretary -General Lord Robertson; Wednesday, October 8, 2003; www.defenselink.mil/transcripts/2003/tr20031008-secdef0746.html, [August 2004].

³⁶ Prague Summit Declaration, Issued by the Heads of State or Government participating in the meeting of the North Atlantic Council in Prague on 21 November 2002 (<http://www.nato.int/docu/pr/2002/p02-127e.htm>, accessed December 2005).

³⁷ The results have been published in the EU Institute for Security Studies 2005: 295ff..

³⁸ After the Danish people rejected the Maastricht Treaty in a referendum in June 1992, the EU member states agreed to grant several “opt-outs” for Denmark from common policies including European Security and Defence Policy. The Irish government has launched a process of consideration whether its constitution should be changed in order to allow participation in battle groups.

Table 9: Country participation in NATO Response Force and EU battle groups

Country	Participation in NRF	Participation in EU Battle Groups	Participation in Integrated military structures (results from previous columns)
Australia	no	no	no
Belgium	yes	yes	yes
Denmark	yes	no	yes
Germany	yes	yes	yes
Finland	no	yes	yes
France	yes	yes	yes
Greece	yes	yes	yes
United Kingdom	yes	yes	yes
Ireland	no	no	no
Italy	yes	yes	yes
Japan	no	no	no
Canada	yes	no	yes
Luxembourg	yes	yes	yes
New Zealand	no	no	no
Netherlands	yes	yes	yes
Norway	yes	yes	yes
Austria	no	yes	yes
Poland	yes	yes	yes
Portugal	yes	yes	yes
Sweden	no	yes	yes
Switzerland	no	no	no
Slovakia	yes	yes	yes
Spain	yes	yes	yes
Czech Republic	yes	yes	yes
Hungary	yes	yes	yes
USA	yes	no	yes

Table 10 gives a very simple picture of the correlation between participation in integrated military structures and the level of parliamentary control of military missions.

Table 10: Levels of parliamentary control and participation in integrated military structures

	participation in integrated structures (21)	no participation in integrated structures (5)
low level of parliamentary control (11)	9: Belgium; Canada; France; Greece; Hungary; Poland; Portugal; United Kingdom; USA	2: Australia; New Zealand
medium level of parliamentary control (7)	6: Czech Republic; Italy; Luxembourg; Netherlands; Norway; Austria	1: Japan
high level of parliamentary control (8)	6: Denmark; Germany; Finland; Slovakia; Spain; Sweden	2: Ireland; Switzerland

Denmark, Germany, Finland, Slovakia, Spain and Sweden make clear that a high level of parliamentary control of military missions is certainly compatible with participation in integrated military forces.

What is striking, however, is that out of the small group of five states that do not participate in integrated military structures, two have high levels of parliamentary control.

4.6. Discussion of results

The previous sections have discussed the explanatory power of five causal factors possibly influencing the level of parliamentary control of military missions. The most important result of the previous discussion is that none of these factors appears to have an overwhelming effect. At the same time, however, evidence has been available for all but one hypothesis. The only factor for which almost no evidence was available is the type of democracy. It is important to note, however, that the distribution of parliamentary and presidential democracies among the sample of countries under consideration hardly allows for more than very preliminary conclusions. If a larger number of presidential systems could be included in a future research sample, the type of democracy may turn out to be more important.

Of the remaining four explanatory variables, none seems capable of providing a comprehensive explanation for the entire sample of countries under consideration. If one relates the explanatory factors to deployment provisions at the time of writing, the number of non-confirming cases even outnumbers the confirming cases for the “locking-in” and “lessons-learnt” hypotheses. It seems clear, however, that this effect can be attributed to a significant degree to recent changes in Japanese and Hungarian deployment legislation. Bearing this caveat in mind, each factor seems to carry some explanatory power. I will summarise and discuss the explanatory power of each factor in turn.

First, the “locking-in” hypothesis holds that young democracies are much likelier to establish a high level of parliamentary control because uncertainty over future governments’ deployment policy is particularly high. The sample includes four ‘young’ democracies only. Evidence in support for the hypothesis is scarce at first glance because only one (i.e. Slovakia) still requires prior parliamentary approval. However, only Poland has refrained from a high level of parliamentary control during the transition period. Slovakia as well as the Czech Republic and Hungary all introduced a high level of parliamentary control during the early years of their transition to democracy as the “locking-in” hypothesis leads us to expect.

Second, the “lessons-learnt” hypothesis states that countries which have experienced a failed military mission are particularly likely to introduce a high level of parliamentary control. Since most countries have not experienced such a policy failure, the sample of countries includes only six states which have experienced policy failure, i.e. Australia, Germany, Hungary, Italy, Japan and the US. It is clearly confirmed in the case of Germany, and Japan’s deployment law was in line with this expectation until 2001. In the American case one can observe an effort to introduce a higher level of parliamentary control, but the resulting War Powers Act remained contested.

Third, the “colonialism” hypothesis points to the distinct military traditions of former colonial powers. Indeed, the expectation that former colonial powers tend to have a low level of parliamentary control is corroborated in those two cases (France and the United Kingdom) which fought a large number of colonial wars. At the same time, out of the eight states that have a high level of parliamentary control, six never fought colonial wars (Denmark, Ireland, Finland, Slovakia, Sweden and Switzerland).

Fourth, the “internationalisation” hypothesis holds that participation in security institutions and integrated military structures in particular makes effective parliamentary control by national parliaments more difficult and may finally lead to a lowering of the level of parliamentary control. Switzerland, Ireland and, until recently, Japan fit this picture because they all abstain from participating in integrated military structures and at the same time maintain high levels of parliamentary control. The case of Hungary also illustrates well the causal mechanism that links membership of NATO and participation in NATO’s Response Force to a lowering of the level of parliamentary control of military missions.

Taken together, a country’s level of parliamentary control appears to be influenced, although not very strongly, by past military missions, a possible past as a colonial power, its possible status as a young democracy and its participation in integrated military structures.

5. CONCLUSION

5.1. Towards a future research agenda

This section discusses possible ways to refine the hypotheses in order to improve their explanatory power.

Most importantly, the research carried out so far has assumed that the explanatory factors exert a uniform effect on the countries under consideration. For example, the “lessons-learned”-hypothesis assumes that any country suffering a military defeat with a high number of casualties tends to introduce a high level of parliamentary control as a result. However, countries may, of course, differ in their assessment of what constitutes a policy failure. For example, Spain introduced a high level of parliamentary control of military missions in 2005 because the new Zapatero government considered Spanish participation in the US-led war against Iraq a policy failure even though there were a very limited number of casualties.³⁹ Similar differences in assessment may occur as regards the other variables as well.

In general, this points to the importance of political culture as an important intervening variable that may explain the different interpretation of similar data across countries. In terms of future research, therefore, it seems promising to pay closer attention to the political culture of the countries under consideration. However, two caveats should be noted in this respect. First, the examination of political culture makes the elaboration of general patterns more difficult. By definition, political culture refers to the *particular* set of norms and values that a society shares. As a consequence, however, we may improve our understanding of a specific country’s view of the world but this may be of limited help in developing a general picture. Second, the examination of political culture is very resource-intensive because it requires a high degree of familiarity with a country’s particular history and political landscape. Therefore, in the framework of a study like this, it would hardly be possible to gather the required information to offer an explanation based on a country’s political culture. However, future research efforts that invest in the comparative study of political culture and parliamentary control of military missions seem promising.

5.2. Policy implications

This paper has focused on identifying factors that may explain the different levels of parliamentary control of military missions. In principle, an improved knowledge of causal mechanisms may always enhance the ability to influence policy in a desired way. The problem here, however, is that most explanatory variables elude efforts of social engineering. Whether a country had a colonial past or suffered from military failure can (and in the latter case, should) hardly be influenced as a means to change the level of parliamentary control.

³⁹ According to <http://icasualties.org/oif/>, 11 Spanish soldiers lost their lives in Iraq.

The importance of military failure for the level of parliamentary control warrants some optimism, however, because a low level of parliamentary control appears to be granted only as long as government policy does not fail. As the cases under analysis here suggest, a government's decision to attack another country almost inevitably leads to an enhanced level of parliamentary control if the armed forces are defeated. Moreover, even if the mission is militarily successful, a high number of casualties may trigger a higher level of parliamentary control. This underlines an important feature of democratic politics, i.e. that the government remains accountable to its citizens and the latter may introduce procedural safeguards if they have reason to doubt the government's ability and willingness to use the instrument of military power in a responsible way.

Although the analysis of the "lessons-learnt" hypothesis warrants some optimism, the only explanatory factor which seems suited for social engineering is a country's policy vis-à-vis integrated military structures. As a consequence, this section focuses on the question of how the tensions between parliamentary control of military missions and the integration of military structures could be eased.

At the start, however, it should be noted that the conflict between parliamentary control of military missions and integrated military structures only occurs in countries with high levels of parliamentary control. The key question therefore is how the high level of parliamentary control in a particular set of countries could be maintained even if they participate in integrated military structures. In general the compatibility of member states' political systems should be taken more seriously when composing multinational integrated military structures (cf. also Houben/Peters 2003).

Forms of "flexible", "enhanced" or "structured" cooperation also contribute to mitigate the conflict between the benefits of military cooperation and the possibility for individual member states to "opt out" of joint military endeavours. Although "opt-outs" have accompanied various major projects of European integration (including economic and monetary union and Schengen), negative connotations (e.g. "Europe à la carte" or "two-speed Europe") have prevented the spread of this instrument.

Flexibility has become a prominent feature of European security and defence policy. After the Danish voters had rejected the Maastricht Treaty in a referendum, Denmark was granted several opt-outs, including security and defence policy. Further flexibility resulted from the transfer of operational tasks from WEU to the EU as this left 10 member states with a commitment for mutual defence. Finally, EU members have participated in armaments co-operation to varying degrees because some members have been among the world's largest producers of arms whereas others have no significant arms industry at all. As a consequence, membership of European armaments institutions has been limited to states with viable industries.

The "Convention on the Future of Europe"⁴⁰ has proposed several institutional reforms designed to acknowledge member state differences in security and defence and to give

⁴⁰ The "Convention on the Future of Europe" (usually abbreviated as "European Convention") was established by the heads of state or government in December 2001 in order to elaborate proposals for institutional reform. The Convention was composed of 15 representatives of the heads of state or government, 30 representatives of the national parliaments, 16 members of the European Parliament, 2 representatives of the European Commission and a large number of representatives

them a constitutional basis (cf. Howorth 2004). According to article III-310 of the constitutional treaty, “the Council may entrust the implementation of a task⁴¹ to a group of Member States which are willing and have the necessary capability for such a task.” However, it is the Council as a whole that will define the task’s “objectives and scope and the general conditions for their implementation”. This provision provides reluctant member states with an opportunity to opt out from joint missions while joint decision-making prevents “coalitions of the willing” becoming detached from the other member states.

Moreover, a protocol to the constitutional treaty defines more demanding military capabilities.⁴² Those member states that wish to enter into such more demanding commitments establish a “permanent structured cooperation”. Whereas the convention had left it to those members interested in more demanding cooperation to establish a “structured co-operation” and to define the criteria and commitments to be fulfilled, the intergovernmental conference following the convention gave the Council, acting with qualified majority voting,⁴³ a greater say in these decisions.

Both provisions aim to give interested member states the opportunity to reap the benefit from military cooperation (such as role specialisation) while giving the more reluctant member states the opportunity to “opt out”. Since demanding standards of parliamentary control may contribute to a more reluctant stance towards security and defence policy, the opportunity to opt out is a welcome instrument to preserve national input legitimacy. Although the constitutional treaty has been rejected in referenda in France and the Netherlands, it should be possible to introduce elements of flexibility into the European Security and Defence Policy below the level of a formal treaty change. Moreover, even if countries have decided to participate in the battle groups, more consideration should be given to the composition of individual groups. Here, the aim should be to avoid a country with a high level of parliamentary control and a tradition of reluctant military engagement to be bound to a country with a low level of parliamentary control and a tradition of military engagement because this constellation makes an undermining of parliamentary control most likely.

More “flexible” forms of military integration could help to maintain effective parliamentary control at national level in countries with a high level of parliamentary control. Given the strong incentives for role specialisation and integrated military structures, however, further measures to avoid a “democratic deficit” in security and defence policy seem necessary. An obvious further strategy to ease an emerging democratic deficit is the strengthening of transnational and supranational parliamentary bodies. To the extent that decisions on the deployment of armed forces are

from the candidate countries and observers from other EU institutions. They met from March 2002 to July 2003. A special working group chaired by Michel Barnier dealt with issues of security and defence. In July 2003, the president of the convention, Valérie Giscard d’Estaing, presented a draft for a “treaty on a European constitution” to the European Council which, after making some amendments, adopted the text. However, the ratification process has been stalled after the treaty was rejected in referenda in France and the Netherlands.

⁴¹ Here, “tasks” refer to the amended Petersberg tasks, i.e. “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces undertaken for crisis management, including peace-making and post-conflict stabilisation” (see article III-309).

⁴² Cf. Protocol No. 23 on permanent structured cooperation established by article I-41(6) and article III-312 of the constitution.

⁴³ The thresholds for reaching a decision are elevated to 55 percent of the member states comprising at least 65 percent of their total population.

internationalised, the parliamentary control of military missions can benefit from internationalisation as well.⁴⁴

In general, the internationalisation of parliamentary control can take two forms. First, a supranational parliament (such as the European Parliament (EP)) could be endowed with competencies to scrutinise the supranational level of decision-making. As the decision to send troops abroad remains at the national level for the foreseeable future, the EP is unlikely to gain many competencies in this respect. However, the EP may help to hold supranational officials (such as the High Representative or the head of the EU Military Staff) accountable for their work.

Second, transnational assemblies could help to enhance parliamentary control by bringing members of national parliaments together. The Parliamentary Assemblies of NATO and the WEU in particular have been active in this respect.

The comparative advantages and disadvantages of a transnational parliamentary assembly can be illustrated by the WEU's Parliamentary Assembly which has been renamed 'Interim European Security and Defence Assembly'.⁴⁵ First, the interim assembly's composition of national deputies fits the ESDP's intergovernmental structure well. After all, national governments will retain prime responsibility for the foreseeable future. Thus, it appears appropriate to delegate democratic control of the ESDP to national parliamentarians in a transnational institution. Second, the interim assembly brings together deputies from 28 members of the 'WEU family' (as the assembly's homepage puts it). In addition to 23 EU members (i.e. all EU states except Malta and Cyprus), this includes Bulgaria, Romania, Turkey, Iceland and Norway which are members of NATO but not (yet) of the EU and whose appropriate involvement in the ESDP has been heavily contested. Thus, the interim assembly could contribute to good relations between the EU and European NATO members on a parliamentary level.

These advantages of giving the interim assembly a prominent role in the democratic control of the ESDP are balanced by several disadvantages. Firstly, the members of national parliaments currently participating in the WEU/interim assembly do not always belong to the defence and foreign affairs committees in their respective parliaments, since they usually also participate in the Council of Europe Assembly. However, most importantly, a second chamber for the democratic control of the ESDP adds further complexity to the institutional system of the EU. Such an increase in complexity would conflict with transparent and clear-cut lines of accountability which are a prerequisite of democratic legitimacy. Moreover, an institutional separation of the ESDP from other issues of external relations seems artificial and difficult to maintain. At a time when the EU's 'double executive' in external affairs begins to merge in order to increase policy coherence, as suggested in the draft Constitutional Treaty, it seems odd to create a

⁴⁴ For a more extensive discussion cf. Wagner 2005 and 2006.

⁴⁵ Because the WEU's mutual defence commitment exceeds that of NATO, members of the WEU preferred not to dissolve the WEU but only to transfer its operational tasks to the EU. The decision not to dissolve the WEU Treaty also implied that its article IX, according to which the Council of the WEU submits an annual report to the WEU Parliamentary Assembly, remained valid. At the time, some urged the Parliamentary Assembly to dissolve itself. Instead, the parliamentarians, who are not elected directly but nominated from national parliaments, decided to rename it the 'Interim European Security and Defence Assembly' and to continue their work.

'double legislative' to supervise external policies. What is more, turf battles between the EP and the interim assembly are inevitable.

It should be noted that these two forms of parliamentary control beyond the nation-state are not mutually exclusive. Instead, a promising strategy to enhance parliamentary control of military missions would be to strengthen both transnational and supranational forms of parliamentary control simultaneously.

6. APPENDIX: PARLIAMENTARY CONTROL OF MILITARY MISSIONS IN WESTERN DEMOCRACIES⁴⁶

6.1. Australia

Australia's political system is heavily shaped by its past as a former British colony. Formally, the British Queen is still the head of state, represented by a Governor-General. In practice, however, the roles of the Queen and her representative are limited to symbolic and ceremonial duties. Moreover, Australia's political system has copied many features from the British Westminster system.⁴⁷ Thus, the executive power rests in a Cabinet headed by a Prime Minister elected by Parliament.

The Australian constitution does not explicitly refer to the powers of the executive to deploy the armed forces but they are considered to form part of its prerogative. As a consequence, the powers to deploy troops "may be exercised without parliamentary approval" (Lindell 2003: 23).

Australia's participation in the 2003 Iraq campaign may serve as an illustration. Prime Minister John Howard announced Australia's participation at a press conference first and in the House of Representatives only later the same day. The House was only asked to endorse the government's decision in a motion on 18 March 2003, i.e. after this decision had been made.

The level of Parliamentary control regarding military deployments is therefore coded as "low".

6.2. Austria

Parliament's competencies regarding military missions have been codified in the "Federal Constitutional Law on Cooperation and Solidarity during the deployment of troops and single soldiers abroad."⁴⁸ This law stipulates that the government may send troops or single persons abroad for peacekeeping missions or humanitarian and disaster relief missions "in agreement with the main committee [Hauptausschuss] of Parliament [Nationalrat]." The main committee comprises 32 parliamentarians (out of a total of 183) and has gained in importance because it also has competencies for European Union affairs.

The coding of the Austrian case is difficult because, on the one hand, prior parliamentary approval is required before deployments can be made, but on the other hand, this approval is not given by the most important forum in parliament, the plenary. Although the members of the main committee reflect the composition of the entire parliament, the

⁴⁶ I am indebted to Anne-Sophie Espana and Sonja Schirmbeck for invaluable assistance in gathering data on the deployment laws of the countries under consideration in this paper.

⁴⁷ One important exception being the federal nature of Australia which was established in 1901 as a Commonwealth by five former British colonies with a sixth acceding shortly after.

⁴⁸ "Bundesverfassungsgesetz über Kooperation und Solidarität bei der Entsendung von Einheiten und Einzelpersonen in das Ausland" that came into force on 22 April 1997.

delegation of competencies from the plenary to the main committee is likely to compromise the influence of parliament. As a committee, the Hauptausschuss is likely to receive less publicity than the plenary. Moreover, particularly as a committee involved in the execution of policies, its members are more likely to follow a government line than a plenary.

The delegation of prior approval to a committee makes the coding of the level of parliamentary control of military missions in Austria more complicated. It is suggested here to regard the prior approval of a parliamentary committee as equivalent to the consultation of the plenary, i.e. as a medium level of parliamentary control of military missions.

6.3. Belgium

According to article 167 of the Belgian constitution,

“[t]he King commands the armed forces, and determines the state of war and the cessation of hostilities. He notifies the Chambers as soon as State interests and security permit.”

This provision leaves the government with considerable freedom of manoeuvre. The “Belgian Parliament does not enjoy the right to participate in decisions concerning the deployment of the armed forces” (Schmidt-Radefeldt 2005: 9; cf. also Born/Urscheler 2004: 63 and Born/Hänggi 2005: 206).

However, due to Belgium’s consociational political culture, governments are composed of representatives of both Wallonia and Flanders and decisions are taken by consensus. As Marc Houben has pointed out, the “dominant mechanism for accountability and evaluation runs via the political parties. That is where ministers are scrutinised and the ‘political bill’ will be made up” (Houben 2005: 43).

The Belgian government was one of the most vocal opponents of the 2003 campaign against Iraq. As the government was very clear that Belgian troops would not participate in the US-led coalition, Parliament had no significant role to play in this process.

According to Marc Houben, Parliament’s involvement in deployment decisions was low in the 1991 Gulf War, UNOSOM, UNAMIR, KFOR/SFOR and ISAF and non-existent in UNPROFOR and Allied Force. The only case where there was Parliamentary involvement concerns Belgian participation in MONUC (Congo) where “any substantial Belgian military contribution [...] was debarred by one of the recommendations of the Rwanda Commission” (Houben 2005: 53) that was set up to inquire into the death of Belgian soldiers in Rwanda.

The level of Parliamentary control regarding military deployments is therefore coded as “low”.

6.4. Canada

Like Australia (cf. above) and New Zealand (cf. below), Canada has a political system that is shaped by having been part of the British Empire. Most importantly, Canada has a Westminster-type system of government headed by a Prime Minister who is accountable to Parliament.⁴⁹ Although Canada had acquired considerable powers of self-government in 1931, the Canadian Parliament obtained constitutional amending power only in 1982.

The Canadian constitution does not require the government to seek approval from Parliament for the deployment of troops (cf. Hampson 2003: 128). Indeed, the traditional government position has been that “there is no specific action required by parliament in the form of an affirmative decision.”⁵⁰

The major piece of legislation, the National Defence Act, states in section 31 that

- “(1) The Governor in Council may place the Canadian Forces or any component, unit or other element thereof or any officer or non-commissioned member thereof on active service anywhere in or beyond Canada at any time when it appears advisable to do so
- (a) by reason of an emergency, for the defence of Canada;
 - (b) in consequence of any action undertaken by Canada under the United Nations Charter; or
 - (c) in consequence of 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.”⁵¹

Whenever Canadian forces are put on active service, the Governor in Council is obliged to call for a meeting of Parliament within 10 days. The Act does not specify, however, “what parliament should do once it is recalled” (Hampson 2003: 129).

In practice, governments have sought varying degrees of parliamentary approval for major peacekeeping and enforcement actions under the UN or NATO (cf., also for the following Hampson 2003). In 1950, for example, parliament did not debate any motion addressing Canadian participation in the Korean war. In contrast, the government sought parliamentary approval for participation in the 1991 Gulf War. In January 1991, the Prime Minister asked the House of Commons to reaffirm its support of the UN in ending the aggression by Iraq against Kuwait. The leader of the opposition, Jean Chrétien, proposed an amendment according to which such support would exclude offensive military action. Parliament supported the Prime Minister in a vote of 217 to 47. Over the course of the 1990s, a growing number of voices, particularly from the opposition, criticised government practice on the eve of the Canadian deployments and called for a strengthening of parliamentary control. In a Private Member’s Bill, Chuck Strahl MP suggested that “if Canada were approached by the UN to participate in a multilateral effort involving more than 100 soldiers for a period exceeding one month, the government would have to develop a plan and present it to the House as a votable

⁴⁹ Like Australia, Canada deviates from the British Westminster model by adding a federal component to its political system.

⁵⁰ Prime Minister Louis St. Laurent in the Canadian House of Commons on 8 September 1950 with a view to Canada’s participation in the Korean War, quoted from Rossignol 1992: 14.

⁵¹ <http://laws.justice.gc.ca/en/N-5/85073.html#rid-85134> [accessed November 2005]. It is worth noting that the National Defence Act provides no definition of what “active service” means and that the Canadian military was involved in hostilities while not considered on “active service”.

motion for a minimum five-hour debate. The plan would have to include the estimated cost of the mission, its geographic location, duration, and the role to be played by Canadian personnel. Once approved, this plan would become the mission's mandate. If it needed to be revised or extended, the government would have to come back to the House with amendments and pass a new resolution.”

This proposal would have changed the level of parliamentary control of deployment decisions. However, the Bill was defeated in June 1995. The Bill is still significant as it demonstrates a considerable level of unease among the Members of Parliament with the current state of deployment legislation. For the time being, however, Canada clearly belongs to those countries with a low level of parliamentary control over deployment decisions (cf. also Born/Hänggi 2005: 206).

6.5. Czech Republic

In the course of the dissolution of Czechoslovakia, the Czech people adopted a new constitution that entered into force on the first day of the Czech republic's existence, i.e. 1 January 1993. The new constitution gave parliament a prominent role in making decisions on military missions. According to article 43 of the constitution,

- (1) Parliament decides on a declaration of the state of war in the event that the Czech Republic is attacked or if it is necessary to meet international treaty obligations concerning joint defence against aggression.
- (2) Armed forces can be sent outside the territory of the Czech Republic only with the consent of both Chambers.

Since 1998, however, the minority government of Milos Zeman has lobbied for an amendment of the constitution that would increase its room for manoeuvre and limit parliament's influence. Deputy Premier Pavel Rychetsky called for changes to the constitution “that would permit the government to make decisions in emergency situations and then go to Parliament.” (Simon 2004: 82). The government position was also supported by the chairman of the Senate Foreign, Defence and Security Committee, Michael Zantovsky, who argued that the Czechs needed a constitutional amendment to comply with NATO commitments (cf., also for the following Simon 2004: 79ff.). A respective amendment was approved by the Cabinet in April 1999. However, when proposed to the Chamber of Deputies in June 1999, only 68 MPs voted in favour of the amendment whereas 116 voted against it. Notwithstanding this severe defeat, the government presented a new proposal shortly thereafter that received the necessary majority.

The amended article 43 of the constitution now reads as follows:

- (2) The Parliament shall decide on the participation of the Czech Republic in defence systems of an international organisation of which the Czech Republic is a member.
- (3) The Parliament shall give its approval of
 - a) dispatch of Czech military forces outside the territory of the Czech Republic,

- b) the presence of foreign military forces on the territory of the Czech Republic, unless these decisions have been reserved for the government.
- (4) The government shall decide on a dispatch of Czech military forces outside the territory of the Czech Republic and on the presence of foreign military forces on the territory of the Czech Republic for up to 60 days at most when 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 organisation of which the Czech Republic is a member, and providing there is approval by the receiving state,
 - c) participation in rescue operations in case of natural, industrial and ecological disasters.
- (5) The government shall also decide
- a) on the passage or flight of foreign military forces through/over the territory of the Czech Republic,
 - b) on the participation of Czech military forces in military exercises outside the territory of the Czech Republic and on the participation of foreign military forces in military exercises on the territory of the Czech Republic.
- (6) The government shall inform both Chambers of the Parliament of its decisions under Subsections 4 and 5 with no delay. The Parliament may revoke such a decision of the Government by an objecting resolution of at least one of its Chambers approved by half of all Members of this Chamber.

Experts have celebrated the constitutional amendment as a means to increase the “flexibility” in reacting to international crises (Khol 2004: 95; Vlachová/Sarvaš 2002: 46). It is also clear, however, that the powers of parliament to control government decisions on the use of military force have been weakened. In assessing parliament’s powers under the revised constitution, much depends on how “contractual obligations concerning common defence” will be interpreted. It seems most appropriate, however, to code the level of parliamentary control over military missions in the Czech republic as “medium”.

6.6. Denmark

Section 19, para 2 of the Danish constitution stipulates that

“[e]xcept for 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 Parliament. Any measure which the King may take in pursuance of this provision shall immediately be submitted to the Parliament. If the Parliament is not in session it shall be convoked immediately.”

This formula has been interpreted as not to apply to “very small in number observer missions all over the world” (Houben 2005: 85). If, however, a substantial military contribution is envisioned, parliamentary *a priori* approval is required.

Danish decision-making during international crises has often been characterised as a search for a broad consensus without which the government would refrain from the deployment of troops. On the eve of the 2003 Iraq war, the conservative government of

Prime Minister Anders Fogh Rasmussen “violated the principle of consensus” (Houben 2005: 97). The leader of the opposition, Mogens Lykketoft, complained that they were “confronted with a *fait accompli*” (quoted from Houben 2005: 97).

Notwithstanding the aberration from traditional political culture during the Iraq war, the level of Parliamentary control regarding military deployments is coded as “high”.

6.7. Finland⁵²

Measured per capita, Finland has been the second largest contributor of troops to military missions in Europe.⁵³

According to the new Finnish constitution that entered into force in March 2000, foreign policy “is directed by the President of the Republic in co-operation with the Government. [...] The President decides on matters of war and peace, with the consent of the Parliament.” (article 93). The constitution itself is silent on military missions short of war. They are addressed in a specific “Peacekeeping Act” that came into effect in 1984 and was revised in early 2001. The Act stipulates that Finland may only participate in military crisis management if this is based on a UN or OSCE mandate (cf. Assembly of the WEU 2001). Under the Act, Finland may not be party to coercive military measures governed by Articles 42 or 51 of the UN Charter. Finnish soldiers may take part in humanitarian assistance or in operations to secure humanitarian assistance at the request of a UN special organisation or agency. The most likely body to request military resources in support of its activities would be the United Nations High Commissioner for Refugees (UNHCR).

Decisions on Finland's participation in peacekeeping operations are first discussed between the President of the Republic and the Cabinet Committee on Foreign and Security Policy that is chaired by the Prime Minister and also includes the Minister of Foreign Affairs, the Minister of Defence and other ministers whose portfolio is affected by an issue under consideration. The Government then seeks approval from the Parliament either through the full Parliament or – in less important participation decisions – via the Foreign Affairs Committee. Normally this is done by giving reports/White Papers to the Parliament. Similar to the case of Norway (see below), the Foreign Affairs Committee's meetings are not open to the public, although its results are published. After the green light from the Parliament the Minister for Foreign Affairs officially proposes to the President that Finland sends her troops.

Thus, the level of parliamentary control of military missions in Finland is “high”.

⁵² I am indebted to Heikki Savola for valuable information on Finish deployment legislation.

⁵³ <http://virtual.finland.fi/netcomm/news/showarticle.asp?intNWSAID=27993>, accessed December 2005.

6.8. France

Article 35 of the French constitution stipulates that “A declaration of war shall be authorised by Parliament.” Similar to the constitutional provisions in Italy and Spain, military actions short of a formally declared war are not explicitly mentioned. In France, this has led to a situation in which governments have “the opportunity to decide whether a parliamentary authorisation is required” (Rozenberg 2003: 126). For example, “President Mitterrand asked for a vote in January 1991 at the beginning of the Gulf war whereas Prime minister Jospin refused a vote during the Kosovo crisis in April 1999 given the divisions in its majority on the question“ (Rozenberg 2003: 126). As President Chirac was the one of the most pronounced critics of the US administration’s intervention in Iraq and French participation was never seriously considered, the Assemblée nationale was not involved.

The level of parliamentary control of military missions in France is therefore coded as “low”.

6.9. Germany

Eager to prevent a recurrence of military aggression in Germany, the drafters of the “Grundgesetz” of 1949 did not provide for any armed forces. Faced with the Cold War, however, the Western Allies reconsidered their initial policy of disarmament and supported German re-armament under the auspices of NATO (cf. Longhurst 2004). A new article was introduced into the Basic Law (article 87a, added March 19, 1956) stating that

- “1) The Federation shall establish Armed Forces for Defence purposes. [...]
- 2) Apart from Defence, the Armed Forces may only be used insofar as explicitly permitted by this Basic Law.”

The latter part of this regulation was understood to allow German participation in collective defence under the auspices of NATO.

Until the end of the Cold War, there was a broad consensus among constitutional lawyers and politicians that the Basic Law ruled out the participation of the Bundeswehr in military missions “out of area”, i.e. in peace-support operations (Baumann 2001: 166). After having been confronted with criticism from its allies for not having contributed troops to the Persian Gulf in 1991, the German government began a deliberately policy of challenging this predominant interpretation of the Basic Law. For that purpose, the government sent small contingents of troops to participate at the fringes of military missions, for example by sending medical troops to Cambodia in 1991 or naval forces to participate in monitoring the embargo against Yugoslavia (which was declared a non-combat mission) (cf. for an overview Baumann/Hellmann 2001).

The government’s policy on participation in peace-support missions was endorsed in principle by the Federal Constitutional Court in a judgment in July 1994. At the same time, however, the Court emphasised that any deployment of the Bundeswehr must have

obtained parliamentary approval in advance because the Bundeswehr was considered a “parliamentary army” whose deployment was not at the executive’s sole discretion. The court also urged parliament to lay down detailed regulations in a specific deployment law. Notwithstanding this request, however, it was not before 2004 that the Bundestag agreed on a deployment law.

According to the deployment law, the deployment of armed forces requires the prior approval of parliament (article 1, para. 2). This general provision does not apply to preparatory measures and to humanitarian missions during which arms are carried for the purpose of self-defence only (article 2, para. 2). For missions of low intensity and importance, a simplified procedure is applied: after the government has outlined why a given mission can be considered to be of low intensity or importance, a respective document is circulated among the members of parliament. The mission is considered to be approved unless, within a period of seven days, one fraction or a minimum of five per cent of parliamentarians call for a formal procedure. According to article 8, parliament may demand the withdrawal of troops.

In sum, ever since German troops have participated in military missions, a prior approval of parliament has been requested. This has been true for both the periods before and after the introduction of a deployment law in 2004. The level of parliamentary control of military missions in Germany is therefore coded as “high”.

6.10. Greece

As a member of NATO and the European Union, Greece has been a frequent contributor to peace-support missions. Armed forces have been sent, *inter alia*, to Bosnia (SFOR), Kosovo (KFOR), FYROM (“Amber Fox”) and ISAF. Greece refrained, however, from participation in “Allied Force” in 1999 and in invading Iraq in 2003.

The literature on Greece’s deployment law is rather sparse.⁵⁴ According to the “Troncho-report” of the WEU Assembly, Article 3, paragraph 10 of law 2292/95 stipulates that “the Council of Ministers has competence, in matters of national defence, for the decision to deploy the armed forces in the framework of Greece’s obligations under international agreements” (p. 12). According to the speaker of the Greek Ministry of Defence, Stefanos Gikas,⁵⁵ the decision-making process on military missions is as follows: the Ministry of Defence elaborates a respective proposal. It then presents the proposal to the Governmental Council on Foreign Affairs (“KYSEA”) which has been established as the main body responsible for decision-making in defence politics and is headed by the Prime Minister. If the Council endorses the proposal, the Minister of Defence informs the Standing Committee on Defence and Foreign Affairs of the parliament. There has no further involvement of Parliament in deciding on the deployment of troops.

The level of parliamentary control of military missions in Greece therefore is coded as “low”.

⁵⁴ The comparative studies by Maillet 1999; Siedschlag (2001; 2002), Nolte 2003, Ku/Jacobsen (2003) Mittag 2003, Born/Urscheler (2003) and Born/Hänggi (2003) do not address the case of Greece.

⁵⁵ Personal communication with Stefanos Girkas by Sonja Schirmbeck on 10.10.2005.

6.11. Hungary⁵⁶

Since the end of the East-West-conflict, the Hungarian legislation on the deployment of forces abroad has undergone a rather large number of revisions. Two periods can be distinguished: First, from the beginning of the democratisation process to the mid-1990s, the Hungarian deployment law was characterised by a growing level of parliamentary control culminating in the constitutional requirement that two-thirds of the members of parliament must approve any deployment of Hungarian troops. Second, since Hungary's accession to NATO in 1999, the development was characterised by the reverse trend of limiting parliament's role by exempting deployments in the framework of NATO.

During the early days of the democratisation process, the communist government of Miklos Nemeth realised that it would almost certainly lose free elections that were scheduled for March 1990. The government therefore tried to insulate the military from what seemed an inevitable process of democratisation. Thus, a few months before the elections took place, the government decided that the military command would no longer rest with the Ministry of Defence (that was expected to be led by the opposition) but by the President (that was expected to be a communist reformer). However, after the election in March 1990, the National Assembly amended the constitution and introduced an extraordinarily high level of parliamentary control over military deployments. Article 19 of the Hungarian constitution stipulated that the Parliament "decides on the use of the armed forces outside or inside the country." Most importantly, for such decision, "the votes of two-thirds of the Members of Parliament are necessary."

When Hungary prepared for NATO membership, the constitutional provisions on the Hungarian military were heavily criticised by NATO officials as an obstacle to efficient decision-making and participation in joint military missions (Dunay 2004; 2005). An early attempt of the government to change the respective provisions failed in 1998/99. Only after then NATO Secretary-General George Robertson complained that the Hungarian constitution prevented participation in NATO missions did the Hungarian Parliament change the constitution in August 2003. Under the new provision, the deployment of armed forces within the framework of NATO no longer requires the prior approval of parliament. With a view to the EU's security and defence policy, this provision was extended to deployment decisions within the framework of the EU in February 2006. Since 2003, therefore, the level of parliamentary control of military missions in Hungary is no longer "high" but "low".

6.12. Ireland

Like Austria, Sweden, Finland and Switzerland, Ireland is a country whose security policy is based on the concept of neutrality.⁵⁷ Like other neutral or non-aligned countries (with the notable exception of Switzerland), Ireland has for a long time been a frequent contributor to peacekeeping missions under the auspices of the United Nations.⁵⁸

⁵⁶ I am grateful to István Gerelyes, Ferenc Molnar and Andrea Puskás for valuable background information.

⁵⁷ In contrast to Austria whose neutrality is codified in international treaties, Ireland's neutrality is not based on any treaty or constitution but forms part of the country's political consensus.

⁵⁸ An updated list is available at http://www.military.ie/overseas/missions_list.htm [last accessed November 2005]

The deployment of Irish troops is subject to a “triple-lock system”. According to this system, a deployment must be endorsed by a United Nations mandate, agreed within the government itself and finally approved by the Irish Parliament (Dáil Éireann). Parliamentary approval has been prescribed by the constitution which states that “war shall not be declared and the State shall not participate in any war save with the assent of the House of Representatives” (article 28, para. 3.1). Only in the case of actual invasion, “the Government may take whatever steps they may consider necessary for the protection of the State, and the House of Representatives if not sitting shall be summoned to meet at the earliest practicable date (article 28, para. 3.2). These constitutional provisions have been further specified in the Defence Act of 1954 that has been amended in 1960. According to the Defence Act, the prior approval of parliament is only required if the deployment of more than 12 armed soldiers is at stake. Deployments below this threshold do not require parliamentary approval.

Ireland participates in NATO’s Partnership for Peace programme and has made commitments to the European Union’s Rapid Reaction Force. However, the Irish government has so far abstained from participation in EU battle groups because “there are legal difficulties with the planned multinational Battle Groups because under the defence act, Irish troops cannot be sent abroad for training, while having foreign troops in the country may breach the Irish Constitution.” (Osswald 2005: 59). Secretary of Defence Willie O’Dea, however, has announced that Ireland aims to establish the conditions required for participation in EU battle groups.⁵⁹

For the time being, the level of parliamentary control of military missions in Ireland is coded as “high” because the exception for military missions with fewer than 12 armed soldiers is not significant.

6.13. Italy

The Italian constitution holds that “Chambers are competent to declare war and assign the necessary powers to government.” (article 78). For military actions other than war, the Italian constitution has been silent. Thus, Alexander Siedschlag has concluded that the government has not been obliged to consult parliament when deciding about military missions (Siedschlag 2002: 229). However, the meaning of the constitution for military missions other than war has been contested between the political institutions and parties involved (for a brief overview cf. Brissa 2005: 52). A minority of parliamentarians have argued that the prior authorisation of military missions by parliament was indispensable. At the same time, however, the government has frequently argued that it was not obliged to take parliament’s point of view into account.

Jörg Luther has argued that the issue has been settled by Law No. 25/1997 in which “Parliament reaffirmed its prerogative to give its approval to all decisions of the Government (Council of Ministers) on defence and security matters prior to their implementation by the competent minister, including the decision to deploy the armed forces” (Luther 2003: 452). However, an important loophole remains because “in cases of

⁵⁹ EUObserver 15.8.2005.

emergency may the Government decide to deploy armed forces by adopting a decree-law even prior to the approval of Parliament” (ibid.). Such decree laws are stipulated in article 77 of the constitution stating that

“in exceptional cases of necessity and urgency, the Government issues on its own responsibility emergency decrees having force of law, on the same day it shall submit them to the House for conversion into laws. Decrees lose effect as of the day of issue if they are not converted into laws within 60 days of their publication” (quoted from Houben 2005: 219).

This emergency clause has been regularly used by governments to pass deployment decisions (Houben 2005: 219). Among other things, decrees specify the budgetary implications of a military mission. Although the issuing of a degree frequently stipulates a substantive debate in parliament about a military mission, such debate usually takes place after troops have already been sent.

In a study dedicated to parliamentary control of EU-led military missions, Giovanna Bono has analysed the decision-making procedure on participating in military missions in detail. Taking Operation Concordia in Macedonia which the EU had agreed in January 2003 and which started on 18 March 2003, Giovanna Bono demonstrates that the Italian parliament played only a marginal role. The government issued a decree on 20 January 2003. However, this decree “did not contain a specific reference to Operation Concordia”. Instead, “[t]he law decree, which is issued every six months to allow the renewal and extension of the mandate of all Italian troops abroad, simply mentioned that the presence of Italian police and military units in Kosovo, FYROM and Albania should be extended until 30 June 2003” (Bono 2005: 212). As Bono emphasises, the government informed parliament of its decision to participate *after* it had endorsed a respective decision in the European Council.

With regard to Italy’s contribution to the reconstruction efforts in Iraq, both chambers of parliament agreed to send up to 3,000 troops (including some 500 Carabinieri). The government had emphasised, however, that these troops would not be involved in combat but would carry out humanitarian tasks.⁶⁰

Taken together, in the case of Italy, the assignation of the level of parliamentary control of military missions depends on how one assesses the importance of the 1997 law, on the one hand, and the importance of the emergency-clause allowing for decree-laws, on the other hand. Born/Urscheler (2004: 63) and Born/Hänggi (2005: 206) have interpreted the Italian case as one of required prior authorisation by parliament. Siedschlag (2002) and Enrico Brissa (2005: 51-4), on the other hand have held a much more sceptical view. Given the size of the loophole to decide on deployments by law-decrees, a “medium” level of parliamentary control seems the most appropriate coding.

⁶⁰ Cf. Frankfurt Rundschau of 16 April 2003 and Frankfurter Allgemeine Zeitung of 16 April 2003.

6.14. Japan

The Japanese constitution has been exceptional for its general renunciation of military force. As in Germany (cf. above), the American government followed a policy of demilitarisation immediately after World War II, and similar to the German case, the abnegation of military force was welcomed by large parts of the population. The Japanese constitution that came into effect in 1947 has been influenced by the experience of World War II and Japanese militarism. Its article 9 reads as follows:

- “(1) Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.
(2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of aggression of the state will not be recognised.”

When the US government had to withdraw troops from Japan in order to fight in Korea, however, it urged Japan to establish a national police force which soon became the Self-Defence Forces. Thus, notwithstanding the constitutional ban on maintaining an army, Japan established armed forces that resembled those in other states in everything but name.

According to the Self-Defence Law of 1954, prior parliamentary approval is required whenever the prime minister plans to send SDF units to participate in infantry missions of UN peacekeeping operations (Shibata 2003: 219). However, it was only after the end of the East-West conflict that Japan participated in military missions abroad. In this context, a new Peacekeeping Law was introduced stating that parliamentary approval applied only to “units” not to “individuals” and only to “peacekeeping forces duties” (including monitoring of cease-fires and withdrawal or demobilisation of armed forces, patrolling in buffer zones, inspection and collection of weapons, and assisting the exchange of prisoners) and not to “non-peacekeeping forces duties” (such as medical, transportation, and other logistics support activities).

After 9/11, a rather dramatic change in Japan’s deployment policy took place. The cornerstone of the new policy is the “Anti-Terrorism Special Measures Law” of October 2001.⁶¹ The law addresses “measures Japan implements in support of the activities of the armed forces of the United States and other countries [...] which aim to eradicate the threat of terrorist attacks” and “measures Japan implements with the humanitarian spirit”, based on a UN mandate (article 2, para. 2). It is important to note that “these measures must not constitute the threat or use of force” (article 3, para. 2). According to article 6,

- “(1) The Prime Minister shall put Cooperation Support Activities, Search and Rescue Activities or Assistance to Affected People implemented by the Self-Defence Forces specified in the Basic Plan, within 20 days of their initiation, on the agenda in the Diet for its approval. When the Diet is in recess or when the House of Representatives is dissolved, however, the Prime Minister shall promptly seek its approval upon the convening of the first Diet session thereafter.

⁶¹ An unofficial translation can be found under http://www.kantei.go.jp/foreign/policy/2001/anti-terrorism/1029terohougaiyou_e.html (last accessed February 2006)

(2) If the Diet disapproves, Cooperation and Support Activities, Search and Rescue Activities or Assistance to Affected People must be promptly terminated.”

The provision to leave the initial decision to deploy forces to the government and to have parliament approve this decision *ex post* bears some similarities to the US War Powers Act (cf. below). In contrast to the War Powers Act and many other countries’ deployment laws, however, the Japanese anti-terrorism law “shall, in principle, expire upon the passage of two years after its entry into force” although, if deemed necessary, “the effect of the law can be extended by no more than two years as set forth by a separate law.” (article 11, para. 3).

On the basis of the anti-terrorism law, Japan has sent maritime units to the Indian Ocean as rear area support to the US troops in Afghanistan (Tidten 2003: 12) and some 550 non-combat troops to Iraq.

Since the introduction of the anti-terrorism legislation, it has become more difficult to code the level of parliamentary control of military missions in Japan. Before the law was introduced, the level of parliamentary control was “high”. At first glance, the anti-terrorism law has changed that level to “low”, as parliament no longer has even to be consulted before troops are sent abroad. Two caveats seem in order, however: first, the anti-terrorism law only applies to non-combat forces since other tasks are still ruled out for Japanese troops. (As a consequence, one may speculate whether a higher level of parliamentary control would be considered necessary once combat operations are included). Second, the anti-terrorism law is only temporary legislation, introduced only weeks after 9/11 to make a swift response possible. It therefore remains to be seen what level of parliamentary control will be considered appropriate for the future. Given these caveats, the level of parliamentary control in Japan since 2001 is best coded as “medium”.

6.15. Luxembourg

The Grand Duchy of Luxembourg is the smallest country under consideration in this study with a population of some 468,000. Luxembourg has an all-volunteer army with approximately 450 professional soldiers.

According to the constitution of Luxembourg, “The Grand Duke commands the armed force; he declares war and the cessation of hostilities after having been authorised by a vote in the Chamber taken under the conditions laid down in Article 114 (5).” (article 37, para. 6). Article 114 (5) specifies that “the Chamber shall not proceed to the vote unless at least three-quarters of its members are present, and no amendment may be adopted unless it is backed by at least two-thirds of the votes.”

In 1992, a law was agreed that specifically addressed the issue of peace support operations. Its article 1 states that the government “is authorised to implement the participation of the Grand Duchy of Luxembourg in peace-keeping operations which are carried out within the framework of international organisations of which the Grand Duchy is a member.” (para. 1) and that “[p]articipation is decided upon by the Government in Council after consultation of the competent commissions of the

Chamber of Deputies” (para. 2). Thus, “Parliament does not really participate in the decision to deploy the armed forces” (Besselink 2003: 526).

Because the government must consult parliament but is not required to ask for prior approval, the level of parliamentary control of military missions in Luxembourg is coded as “medium”.

6.16. New Zealand

There is little (if any) literature on New Zealand’s law and practice of military deployments. According to the available evidence,⁶² the government is not obliged to ask parliament for prior approval of military missions. Usually, the government aims to secure a broad consensus across party lines and parliament discusses military missions. However, government may act without having even consulted parliament, as Prime Minister Norman Kirk demonstrated in 1972 when he sent a frigate to the Mururoa Atoll to protest against French nuclear tests without any prior consultations.

Thus, the level of parliamentary control of military missions in New Zealand is “low”.

6.17. Netherlands

In the Netherlands, the role of parliament (the “Staten-Generaal”) in making decisions on the deployment of the armed forces has been heavily contested. The debate on parliament’s role was triggered in the late 1970s by the government’s decision to participate in the peacekeeping force in south Lebanon (UNIFIL) with a battalion, comprising many conscripts (cf. also for the following Houben 2005: 62ff.). Parliamentarians protested against the secrecy in which this decision had been taken by the government and asked for a better mechanism for consultation. By the late 1980s, after several years of debate about such a procedure, “it had become political practice for the government to consult Parliament on the basis of a letter sent by the government to Parliament, in which the government specified and explained the mission and circumstances, the personnel and materials to be deployed, and the financial consequence” (Houben 2005: 63f.)

This practice became formalised in 2000 when a new article was introduced to the Dutch constitution. According to article 100

“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.”

⁶² I owe the information in this paragraph to Sonja Schirmbeck who has gathered them in personal communications with the Embassy of New Zealand in Germany.

Because the government must consult parliament but is not required to ask for prior approval, the level of parliamentary control of military missions in the Netherlands is coded as “medium”.⁶³

6.18. Norway

Norway has been an important contributor to military missions. In addition to a large number of UN peacekeeping missions, Norway also participated in Operation Allied Force in 1999 and in the mission in Iraq.

According to article 25 of the constitution,

“The King is Commander-in-Chief of the land and naval forces of the Realm. These forces may not be increased or reduced without the consent of the Storting. They may not be transferred to the service of foreign powers, nor may the military forces of any foreign power, except auxiliary forces assisting against hostile attack, be brought into the Realm without the consent of the Storting.

The territorial army and the other troops which cannot be classed as troops of the line must never, without the consent of the Storting, be employed outside the borders of the Realm.”

The king’s royal prerogative is now exercised by the Council of State, i.e. the government (Nustad/Thune 2003: 162). As Marc Houben points out the second part of this article was designed in the 19th century to “prevent the Swedish king from sending Norwegian forces abroad without Norwegian consent” (Houben 2005: 109). Thus, it is interpreted not to apply to international crisis management operations. In such cases, “the Storting does not have a formal right to consent” (Houben 2005: 108). Nevertheless, it has been “an established custom to consult Parliament prior to the deployment, and the government will usually follow the outcome of the round of consultations with parliament” (ibid.). Moreover, “the budgetary authority of parliament will often require legislative consent prior to deployment” (Nustad/Thune 2003: 163).

In the process of consultation with parliament, parliament’s “Enlarged Foreign Policy Committee” plays a prominent role. As Nustad and Thune point out, however, “the most striking feature of the Committee is its lack of transparency. The documents and debate are all exempt from the public, and it is up to the head of the Foreign Policy Committee to decide whether the meetings are to be kept secret.” (Nustad/Thune 2003: 163).

Taken together the interpretation of the Norwegian constitution, the practice of consultation and the secrecy of the deliberations in the Enlarged Foreign Policy Committee, the level of parliamentary control of military missions in Norway is most appropriately coded as “medium”.

⁶³ Born/Urscheler (2004: 63) and Born/Hänggi (2005: 206) have counted the Netherlands among the countries where prior approval by parliament was required. This coding draws less on constitutional provisions than on political culture. As the case of Denmark illustrates, however, a government may decide to violate unwritten rules of consensus-building if it deems it necessary or appropriate. For the purposes of this study, a codification as “medium” is therefore preferred.

6.19. Poland

The Polish constitution of 1997 stipulates that

“The House of Representatives (*Sejm*) shall declare, in the name of the Republic of Poland, a state of war and the conclusion of peace” (article 116 (1)).”

The constitution itself does not spell out specific provisions for military missions short of war. Instead, article 117 leaves the issue for further specification by specific regulation:

“The principles for deployment of the Armed Forces beyond the borders of the Republic of Poland shall be specified by a ratified international agreement or by statute. The principles for the presence of foreign troops on the territory of the Republic of Poland and the principles for their movement within that territory shall be specified by ratified agreements or statutes.”

The required statute has been agreed in December 1998.⁶⁴ It distinguishes between the deployment and the stationing of Polish troops abroad (cf. Kowalski 2003: 58). Whereas the stationing of armed forces includes military training or manoeuvres, rescue, search and humanitarian missions and representative events, deployment is to mean their presence abroad in order to take part in

- a) armed conflict or the support of the forces of an allied state or states;
- b) peace operations;
- c) missions against terror attacks or their effects.

The statute also stipulates that the Sejm is to be informed immediately once a deployment decision is made by the government. By the same token, “Parliament is not directly involved in making the decision concerning the deployment of the armed forces” (Kowalski 2003: 672; cf. also Schmidt-Radefeld 2005: 148).

Therefore, the level of parliamentary control of military missions in Poland is coded as “low” (cf. also Born/Urscheler 2004: 63 and Born/Hänggi 2005: 206).

6.20. Portugal

According to the Portuguese constitution of 1976,⁶⁵ the assembly of the Republic has the power to “authorise the President of the Republic to declare war and to make peace” (article 161 m). However, if no declaration of war is made (as for virtually all military missions under the auspices of the United Nations, NATO and the EU), prior parliamentary approval is not requested (cf. also Born/Urscheler 2004: 63 and Born/Hänggi 2005: 206).

⁶⁴ Ustawa z dnia 17 grudnia 1998 r. o zasadach użycia lub pobytu Sił Zbrojnych Rzeczypospolitej Polskiej poza granicami państwa [Statute Concerning the Rules on the Deployment and Stationing of Polish Armed Forces Abroad of 17 December 1998, ZUPSZ]

⁶⁵ http://www.parlamento.pt/ingles/cons_leg/crp_ing/index.html (last access March 2006).

Article 163 stipulates that parliament has the power to “monitor, in accordance with the law and Standing Orders, the involvement of Portuguese military contingents abroad”. A respective law has been agreed in August 2003.⁶⁶ Article 3 holds that the government only has to communicate to Parliament its decision to deploy troops. The government is not obliged to seek prior approval or even consult parliament. Thus, the level of parliamentary control of military missions in Portugal must be coded as “low”.

6.21. Slovakia

Together with the Czech Republic, the Slovak Republic emerged from the dissolution of Czechoslovakia in 1993. Slovakia contributed troops to both IFOR and KFOR and also joined the “coalition of willing” in the US-led war against Iraq.

Slovakia’s constitution stipulates that “[t]he National Council of the Slovak Republic is the sole constituent and legislative body of the Slovak Republic” (article 72). According to article 86, the jurisdiction of the National Council

“comprises, above all:

[...]

k) deciding on the declaration of war if the Slovak Republic is attacked or as a result of commitments arising from international treaties on common defence against aggression,

l) expressing consent to sending armed forces outside the territory of the Slovak Republic.”

As the Slovak government is required to seek the prior approval of military missions, the level of parliamentary control in Slovakia is coded as “high”.

6.22. Spain

The constitutional provisions for military missions in Spain are similar to those in Italy (cf. above). The Spanish constitution stipulates that “[i]t is incumbent on the King, after authorisation by the Parliament, to declare war and make peace” (article 63, para. 3). According to Marc Houben, “it can fairly be stated that this responsibility rests with the head of government, who ‘directs domestic and foreign policy, civil and military administration, and the defence of the state’ (article 97)” because all acts by the king have to be countersigned by the prime minister (2005: 169). At the same time, however, the constitution has been silent on the decision-making process for military missions short of war. The “legislative vacuum” has been exacerbated by the fact that “the internal rules of the two chambers sitting together as the Cortes Generales have not yet been drawn up and the procedure is still to be defined” (Houben 2005: 169). According to Cotino Hueso, “the prior authorisation of Parliament for the declaration of war has become an empty power since combat operations are routinely practiced without this formality.” (Cotino Hueso 2003: 741). For example, the Spanish government authorised the use of force

⁶⁶ Lei que regula o acompanhamento, pela Assembleia da República, do envolvimento de contingentes militares portugueses no estrangeiro (Lei no 46/2003 de 22 de Agosto). I am grateful to Bernhard Moltmann for providing a translation of the Portuguese text.

against Serbian targets in March 1999 in the NATO Council without having even consulted parliament. It was only a week after the beginning of “Allied Force” that the Spanish parliament endorsed the allied decision (Cotino Hueso 2003: 742).

After the hugely unpopular participation of Spanish forces in Iraq⁶⁷ and the election defeat of the conservative Partido Popular in March 2004, the new Spanish government of Jose Luis Rodriguez Zapatero agreed on a new deployment law.⁶⁸ According to the new law, military missions require the prior approval of parliament.

Since September 2005, the level of parliamentary control of military missions in Spain, can be coded as “high”.

6.23. Sweden

Instead of one constitutional document, Sweden has four fundamental laws which serve as a basis for how Sweden is ruled. One of these documents titled “the instrument of government” spells out provisions for Swedish participation in military missions.

According to article 9 of chapter 10 (“Relations with other states and international organisations”), a state of war “may not be declared without the consent of the Riksdag, except in the event of an armed attack upon the Realm”. Moreover,

“Swedish armed forces may otherwise be committed to battle or dispatched abroad only provided

- 1) the Riksdag consents thereto;
- 2) the action is permitted under an act of law which sets out the prerequisites for such action;
- 3) a duty to take such action follows from an international agreement or obligation which has been approved by the Riksdag.”

In a specific law on the deployment of Swedish forces abroad, the government is empowered to decide on the deployment of up to 3,000 troops without consulting parliament if these troops are deployed in the framework of a *peacekeeping* mission under the auspices of the United Nations or the OSCE (Siedschlag 2001: 8; Maillet 1999: 65). Parliamentary approval is required, however, if troops are to be deployed to *peace-enforcement* missions.⁶⁹ This law is the most common legal basis for Swedish deployments abroad (Maillet 1999: 65). As a consequence, the majority of deployments do not require the prior approval of parliament. Nevertheless, the Swedish government has frequently consulted the parliament in order to obtain a maximum of political support (Maillet 1999: 65). Parliamentary approval has also been considered to be important because peacekeeping missions under chapter VI of the UN Charter may evolve into peace-enforcement missions under chapter VII of the Charter. Therefore, at the time of writing,

⁶⁷ On the eve of the US-led invasion, the Spanish government declared that it would not send combat troops but some 900 soldiers to support the coalition forces. After the invasion was completed, Spain contributed some 1,300 troops to the coalition forces in Iraq.

⁶⁸ Ley Orgánica 5/2005, de 17 de noviembre, de la Defensa Nacional, cf. also Frankfurter Allgemeine Zeitung, 16 September 2005.

⁶⁹ Personal communication between Sonja Schirmbeck and the Swedish Foreign Ministry.

all military deployments (KFOR, Althea, ISAF and UNMIL) received prior approval by Parliament.

In line with Born/Urscheler (2004: 63) and Born/Hänggi (2005: 206), the level of parliamentary control of military missions in Sweden is coded as “high”.

6.24. Switzerland

Like Austria, Ireland, Finland and Sweden, Switzerland has not been a member of any military alliance. Whereas Austria, Ireland, Finland and Sweden have been proactive members of the United Nations and frequent contributors to UN-led peace-support missions, however, Switzerland has for a long time abstained from such a policy. Changes to Switzerland’s traditional policy were hampered by the prevalence of referenda. For example, in 1986 the government’s proposal to accede to the United Nations was rejected in a referendum. It took another referendum in March 2002 before Switzerland could become a member of the United Nations on 10 September 2002. Notwithstanding its late accession to the United Nations, Switzerland has participated in a peacekeeping mission in Korea (the Neutral Nations Supervisory Commission) since 1953. In Korea as elsewhere, Swiss contributions were limited to unarmed troops. A ‘Blue Helmet law’ that allowed the use of force for self-defence was rejected in a referendum in June 1994. Only in 2001 did the Swiss endorse the armament of its troops in a further referendum (Seidler 2005).

According to article 66 of the Swiss military law, the parliament (“Bundesversammlung”), must give prior approval for each deployment that comprises more than 100 troops or lasts longer than three weeks. In urgent cases, the government (Bundesrat) may seek parliamentary approval a posteriori. Although a Swiss contribution may frequently consist of fewer than 100 troops, military missions hardly last less than three weeks. As a consequence, parliament’s competencies in deployment decisions are only circumscribed at the fringes. The level of parliamentary control of military missions in Switzerland therefore is coded as “high”.

6.25. United Kingdom

The United Kingdom does not have a written constitution. Instead, British politics is governed by a set of conventions. Notwithstanding the lack of a written document spelling out the governance of security and defence policy, there has been little doubt that the deployment of armed forces has been a part of the royal prerogative and as such does not require the prior authorisation of parliament (cf. White 2003: 300; Allen 2003: 155; Rowe 2003: 836). Moreover, “the courts have no power to review the decisions of the Crown on the disposition and use of force of the UK’s armed forces, although there is a discernible trend to review the prerogative in other areas” (White 2003: 301).

The royal prerogative is “the set of powers vested in the crown but delegated to the prime minister” (Houben 2005: 123). It is left to the political judgment of the prime minister

whether it is appropriate to hold a vote in the House of Commons in support of his or her policy in an international crisis. Thus, Margaret Thatcher asked the House of Commons for support “to discipline and silence her own backbenchers” (Houben 2005: 137). In contrast, British participation in Operation Allied Force, although debated in the House of Commons, “was never subject to a substantive vote” (White 2003: 301).

In the face of anti-war protests and widespread opposition among the governing party, Prime Minister Tony Blair decided to seek support for his policy on Iraq in the House of Commons. On 18 March 2003, the House of Commons voted on a government motion seeking authority for military action and the use of “all necessary means” to disarm Iraq. Because an overwhelming part of the Conservative Party voted in favour of the motion and despite the “largest-ever parliamentary rebellion” (Keohane 2005: 72) among Labour MPs, the motion was approved by 412 to 149 votes.

From time to time, a formal power of parliament to authorise the deployment of forces has been suggested. For example, the Chancellor of the Exchequer, Gordon Brown, “stated that in future, Members of Parliament should be allowed to decide whether Britain goes to war” (Parry 2005). However, such proposals have never gained the necessary clout to become realised. The level of parliamentary control of military missions in the United Kingdom therefore has to be coded as “low”.

6.26. USA

The degree of parliamentary control of military missions in the USA is difficult to establish because the most important actors involved, Congress and the President, do not share a common interpretation of the respective constitutional provisions. Moreover, Congress’ attempt to “clarify” its powers via a resolution of both Houses (the “War Powers Resolution” of 1973) has never been accepted by the incumbents of the Presidency. Instead, “every President has taken the position that it is an unconstitutional infringement by the Congress on the President’s authority as Commander-in-chief” (Grimmet 2003: 2). The issue has remained contentious partly because “[t]he courts have not directly addressed this question” (ibid.).

The dispute over the distribution of competencies has been aggravated by the fact that the USA has a presidential system in which the incumbent of the presidency is not elected by parliament but – via an electoral college – by the American people. Whereas in parliamentary systems, it is the opposition who is tasked with the control of the government *and* its supporting majority in parliament, in presidential systems like the USA, it is primarily Congress as a whole that is charged with the control of the executive headed by the president. By the same token, political parties have played a much weaker role in American politics. As a consequence, the link between the president and “his” party in Congress has been much weaker than the one between a prime minister and “his” or “her” party in parliament in parliamentary systems.

As regards military deployments, the most important competence that the American constitution has given Congress is the power “to declare war” (article I, section 8).⁷⁰ In contrast, article 2, section 2 provides that “the President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several states.” The commander-in-chief clause has been widely understood as authorising the President to repel attacks against the US. However, the commander-in-chief clause has also been cited by successive presidents as a legal basis for sending troops into conflicts short of major war.

As Louis Fisher points out, up to the war in Korea, “all major military initiatives by the United States were decided by Congress, either by a formal declaration of war or by a statute authorising the president to use military force” (Fisher 2004: 155). By the same token, “[t]he record since 1950 has been dramatically different” with presidents feeling “increasingly comfortable in acting unilaterally when using military force against other countries” (Fisher 2004: 155). In 1950, President Truman committed troops to Korea without even consulting Congress, let alone asking for prior approval (Collier 1994: 57). Unease in Congress mounted during the Vietnam War and its extension to Cambodia (all of which had taken place without a declaration of war and in the face of growing unpopularity) leading to the War Powers Resolution of 1973. Although President Nixon vetoed the bill, both houses of Congress overrode the veto and thereby enacted the war powers resolution into law.

The War Powers Resolution (section 3) provides that

“The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.”

Section 4 stipulates that

“In the absence of a declaration of war, in any case in which United States Armed Forces are introduced –

- (1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;
- (2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair or training of such forces; or
- (3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth –

- (A) the circumstances necessitating the introduction of United States Armed Forces;

⁷⁰ In addition Congress has been given powers “to raise and support armies”, “to provide and maintain a navy” and “to make Rules for the Government and Regulation of the land and naval forces”.

- (B) the constitutional and legislative authority under which such introduction took place; and
- (C) the estimated scope and duration of the hostilities or involvement.”

Of particular importance is also section 5 (b) stating that

“Within 60 calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorisation for such use of United States Armed Forces, (2) has extended by law such 60-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States”.

The subsequent section 5 (c) introduces a legislative veto:

“at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorisation, such forces shall be removed by the President if the Congress so directs by concurrent resolution.”

According to Ellen Collier, “[i]t is not possible to say flatly either that Presidents have complied with the War Powers Resolution or that they have not” (1994: 55). Although reports have frequently been submitted to Congress, presidents have usually not cited section 4(a)(1) that would trigger the 60-day-time limit (*ibid*). What is more, “there has been very little consultation with Congress under the Resolution when consultation is defined to mean seeking advice prior to a decision to introduce troops. Presidents have met with congressional leaders after the decision to deploy was made but before commencement of operations” (Grimmet 2003: 13).

For example, President Bill Clinton notified Congress on March 24, 1999 about the air strikes against Serbian targets. Although Clinton had made a reference to the war powers resolution when notifying Congress he did not seek an explicit authorisation of operation Allied Force even when passing the 60-day limit of the war powers resolution. Instead, Clinton adopted the position of his predecessors that the war powers resolution was constitutionally defective (Grimmet 2003: 5). In contrast, President George W. Bush sought support by asking Congress for a resolution authorising the use of armed force during the preparations of the military campaign against Iraq. On October 10 and 11, the “Joint Resolution to Authorise the Use of United States Armed Forces Against Iraq (H.J.Res. 114)” passed the House of Representatives by a vote of 296-133 and the Senate by a vote of 77-23. The resolution was signed into law by President Bush on October 16, 2002.

The contested legal status of the war powers resolution and the inconsistent practice of dealing with Congress on the eve of military deployment make a coding of the American case rather difficult. It seems clear, however, that the president has not been obliged to ask for prior parliamentary approval of military action (cf. also Born/Urscheler (2004: 63) and Born/Hänggi (2005: 206)). What has been at stake is whether the president has been obliged to consult parliament and whether he may deploy troops beyond a 60-day period without having obtained explicit approval by Congress. Given the frequent practice of

ignoring the provisions of the war power resolution and the reluctance of courts to address this issue, the level of parliamentary control of military missions in the USA is most appropriately coded as “low”.

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