

PARLIAMENTARY SCRUTINY OF EU EXTERNAL ACTION,
including the Common Foreign Security Policy (CFSP) and the Common Security and Defence Policy (CSDP)

following the entry into force of the Lisbon Treaty

Note by Elmar BROK and Roberto GUALTIERI, MEP

DRAFT, version 07.11.2010

With the Lisbon Treaty the European Parliament has become a fully-fledged parliament, adopting legislation on equal footing with the Council and electing the President of the European Commission and the College of Commissioners, after holding parliamentary hearing with each individual Commissioner. It enjoys full budgetary powers, gives its consent to international agreements between the EU and third parties and exercises political control rights over the executive, as is the case with parliaments at national level.

This is also the case for the Union's foreign policy, since the Lisbon Treaty enables the European Parliament to use its legislative, budgetary, political and consultation powers in order to scrutinise and shape the EU's foreign policy, thus ensuring the democratic legitimacy of the overall EU external action.

As outlined in detail below, the parliamentary scrutiny exercised by the European Parliament covers all fields of EU external action, except for one area, which remains fully in the hands of the individual parliaments of Member States, beyond any direct influence of the European Parliament - Council decisions relating to the launching, funding and conduct of CSDP **military** operations. Such decisions fall in fact into the remit of parliaments at national level.

The role of national parliaments, however, goes beyond the purely military and defence realm, as recognised by the Lisbon Treaty. Parliaments of Member States have the right to hold their governments to account for decisions taken in the European Council, in the Foreign Affairs and in the General Affairs Councils, including when deciding on the launch, mandate, scope and size of CSDP **civilian** missions.

With this division of labour between the European Parliament and EU national parliaments, there are no areas of EU foreign policy left outside of parliamentary control. The Treaty provides in fact the European Parliament and EU national parliaments – each in their respective areas of responsibility – with the rights necessary to ensure that EU foreign policy in its broadest sense is democratically legitimised.

However, it is clear that, in order to make full use of these scrutiny rights, the European Parliament and EU national parliaments need to intensify their cooperation in an effort to support each other in the exercise of their respective roles.

What is needed therefore are not new decision making levels or structures (taking over from the European Parliament or from EU national parliaments roles and responsibilities which derive from the treaties and national constitutional frameworks). It is rather a question of intensifying dialogue, holding timely exchange of information and promoting effective and regular cooperation at the level of specialised committees, as envisaged by Art 10 of the Protocol on the Role of National Parliaments in the EU, in order to mutually reinforce the influence of the parliaments involved over the political choices made by the VPHR and the Council of Ministers.

The Committee on Foreign Affairs of the European Parliament (AFET), including its Subcommittee on Security and Defence, and the committees on foreign affairs, security and defence of EU national parliaments should intensify their cooperation. This could be based on regular meetings held 2-3 times a year, under the joint leadership of AFET and the parliament of the Member State holding the EU rotating Presidency. Such meetings would allow the exchange of information and views on current EU foreign policy issues, including CFSP and CSDP operations, enlargement and external assistance. The possibility of holding additional ad-hoc meetings to debate urgent and topical issues should be envisaged. This cooperation should be backed by permanent cooperation and continuous exchange of information between the secretariats of all committees involved. The European Parliament would provide all logistical support, necessary for holding of such meetings, incl. premises and interpretation.

Annex – Overview of the role and responsibilities of the European Parliament and EU national parliaments in the area of CFSP/CSDP

issue	role and responsibility of national parliaments	role and responsibility of the European Parliament
1) legislative and democratic scrutiny rights (shaping and control of EU foreign policy)	holding to account national governments deciding in the European Council and the Council, in accordance with Art. 26 TEU	The HR/VP shall " <i>regularly consult the EP on the main aspects and the basic choices of the CFSP and CSDP and inform it of how those policies evolve. He shall ensure that the views of the EP are duly taken into consideration</i> ". (Art. 36 TEU)
Decisions on CFSP actions and positions (operations, missions, strategies)	holding to account national governments deciding about the CFSP in the European Council and the Council, in accordance with Art. 26 TEU	- consultations by the HR/VP with the EP prior to adoption of decisions - joint consultation meetings of EP committees with the PSC Chair about CFSP missions financed out of EU budget (missions under preparation + ongoing missions) (Point 1 of Declaration on Political Accountability)
Decisions on CSDP military missions	- holding to account national governments, acting unanimously in the Council - participation in military missions subject to prerogatives of national parliaments, in accordance with national constitutional requirements	- consultations by the HR/VP with the EP prior to adoption of decisions (Point 1 of Declaration on Political Accountability)
Decision to establish a common defence	- holding to account national governments, acting unanimously in the European Council - ratification by national parliaments in accordance with national constitutional	

	requirements (<i>Art. 42 (2) TEU</i>)	
Decisions on implementation of development policy	holding to account national governments, acting in the Council	co-decision
Decisions on implementation of common commercial policy	holding to account national governments, acting in the Council	co-decision
Establishment of the European External Action Service	holding to account national governments, acting in the Council	Consultation on the Basic Decision Co-decision on Staff Regulation, Financial Regulation and the EEAS budget
EU External assistance	holding to account national governments, deciding in the Council	- co-decision on regulations establishing the external assistance instruments (e.g. European Neighbourhood and Partnership Instrument, Development Cooperation Instrument, Instrument for Stability, etc.) - budgetary authority, co-deciding the yearly budgets together with the Council - dialogue with the European Commission, the HR/VP and the EEAS about strategic programming documents (<i>Point 3 of Declaration on Political Accountability</i>)
2) Budgetary rights		
decision on own resources of the EU	- holding to account national governments, deciding unanimously in the European Council - approving the decision in accordance with national constitutional requirements (<i>Art. 311</i>	- consultation of the EP (<i>Art. 311 TFEU</i>)

	<i>TFEU</i>)	
budget of EU external action	<ul style="list-style-type: none"> - holding to account national governments, deciding unanimously in the Council (Multiannual Financial Framework, <i>Art. 312 TFEU</i>) - holding to account national governments, deciding in the yearly budgetary procedure 	<ul style="list-style-type: none"> - consent of the EP (<i>Art. 312 TFEU</i>) - budgetary authority, co-deciding the yearly budget (<i>Art. 314 TFEU</i>)
Budget of civilian CFSP operations	<ul style="list-style-type: none"> - holding to account national governments, deciding in the Council 	<ul style="list-style-type: none"> - budgetary authority, co-deciding the yearly budget for CFSP, together with the Council (<i>Art. 41 (1) TEU; Chapter 3 TFEU; Point 10 of Declaration on Political Accountability</i>) - discharge for the implementation of EU budget by the Commission (<i>Art. 319 TFEU</i>)
Budget of military CFSP operations	<ul style="list-style-type: none"> - holding to account national governments, deciding in the Council - budgetary authorities for military missions expenditure, charged to the Member States budget (<i>Art. 41 (2) TEU</i>) 	<ul style="list-style-type: none"> - EP informed via select committee for access to confidential documents (<i>Point 8 of Declaration on Political Accountability</i>) - co-deciding on administrative costs arising from EU military operations
start-up fund for military expenditure	<ul style="list-style-type: none"> - holding to account national governments, deciding by QMV in the Council - budgetary authorities for military missions expenditure 	
EEAS administrative budget	<ul style="list-style-type: none"> - holding to account national governments, deciding in the yearly budgetary procedure 	budgetary authority, co-deciding the yearly budget, together with the Council
3) control rights / accountability of the		

EU executive		
European Commission	- holding to account national governments, acting in the European Council	- electing the President of the COM - approving the College of Commissioners (<i>Art. 17 (7) TEU</i>) - responsibility of the COM towards the EP; right to dismiss the COM (<i>Art. 17 (8) TEU</i>)
HR/VP (appointed according to Art. 18 TEU)	- holding to account national governments, deciding by QMV in the European Council (<i>Art. 18 TEU</i>)	- the HR/VP is, as Member of the COM, subject to approval by the EP (<i>Art. 17 (7) TEU</i>) -regular consultation of the EP (<i>Art. 36 TEU</i>)
European Union Special Representatives	- holding to account national governments, deciding on appointment by QMV in the Council (<i>Art. 33 TEU</i>)	- to appear before AFET for an exchange of views, before taking up their posts (<i>Point 5 of Declaration on Political Accountability</i>) - to provide regular briefings to EP committees (<i>Art. 36 TEU + Point 7 of Declaration on Political Accountability</i>)
Senior personnel of the EEAS, appointed by the HR/VP		- to provide regular briefings to EP committees (<i>Point 7 of Declaration on Political Accountability</i>)
Heads of EU Delegations, appointed by the HR/VP, under involvement of the COM		- to appear before AFET for an exchange of views, before taking up their posts (<i>Point 5 of Declaration on Political Accountability</i>) - to provide regular briefings to EP committees (<i>Point 7 of Declaration on Political Accountability</i>)
Heads of CSDP Missions	- holding to account national governments, deciding in the Council	- to provide regular briefings to EP committees (<i>Point 7 of Declaration on Political Accountability</i>)

	- participation in military missions subject to prerogatives of national parliaments, in accordance with national constitutional requirements	
4) Ratification rights	- for mixed EU/MS agreements: ratification in accordance with national constitutional requirements	- depending on character/field of the agreement: in vast majority of cases: consent; otherwise consultation (<i>Art. 218 TFEU</i>) - EP to be immediately and fully informed at all stages of negotiations (<i>Art. 218 (10) TFEU; Point 2 of Declaration on Political Accountability</i>)

Abbreviations:

COM ... European Commission

EEAS ... European External Action Service

HR/VP ... High Representative of the Union for Common Foreign and Security Policy / Vice President of the Commission

MS ... Member States

PSC ... Political and Security Committee (Council)

QMV ... qualified majority vote (in the Council)

Annex:

Declaration by the High Representative on Political Accountability

Statement given by the High Representative in the EP plenary on the basic organisations of the EEAS central administration